

CR

CYPRUSREVIEW
A Journal of Social Sciences

Spring 2021, Volume 33, Number 1
Special Issue on COVID-19

Published by the University of Nicosia
ISSN 1015-2881 (Print) | ISSN 2547-8974 (Online)

DISCLAIMER

The views expressed in the articles and reviews published in this journal are those of the authors and do not necessarily represent the views of the University of Nicosia, the Editorial Board, or the Editors.

P.O. Box 24005
1700 Nicosia, Cyprus
T: 22-842301, 22-841500
E: cy_review@unic.ac.cy
www.cyprusreview.org

SUBSCRIPTION OFFICE:

The Cyprus Review
University of Nicosia
46 Makedonitissas Avenue
1700 Nicosia, Cyprus

Copyright: © 2020
University of Nicosia, Cyprus
ISSN 1015-2881 (Print), 2547-8974 (Online)

All rights reserved.
No restrictions on photo-copying.
Quotations from *The Cyprus Review*
are welcome, but acknowledgement
of the source must be given.

EDITORIAL TEAM EDITORIAL BOARD

EDITORIAL TEAM

Editor-in-Chief:	Dr Christina Ioannou
Consulting Editor:	Prof. Achilles C. Emilianides
Managing Editor:	Dr Emilios A. Solomou
Publications Editor:	Dimitrios A. Kourtis
Assistant Editor:	Dr Maria Hadjiathanasiou
Publication Designer:	Thomas Costi
Linguistic Editor:	Tereza Skarvelaki

EDITORIAL BOARD

Dr Constantinos Adamides	University of Nicosia
Prof. Panayiotis Angelides	University of Nicosia
Dr Odysseas Christou	University of Nicosia
Prof. Costas M. Constantinou	University of Cyprus
Prof. Dimitris Drikakis	University of Nicosia
Prof. Hubert Faustmann	University of Nicosia
Dr Sofia Iordanidou	Open University of Cyprus
Prof. Andreas Kapardis	University of Cyprus
Prof. Savvas Katsikides	University of Cyprus
Prof. Farid Mirbagheri	University of Nicosia
Dr Petros Papapolyviou	University of Cyprus
Prof. Constantinos Phellas	University of Nicosia
Dr Sertaç Sonan	Cyprus Academic Dialogue

**COVID-19
in Doctrinal
Context**

**Analysing, Theorising,
and Surpassing the
Pandemic Crisis**

CONTENTS

Indexing: The contents of *The Cyprus Review* are indexed in the following publications: Bulletin Signalétiques en Sciences, Humanities et Sociales; International Bibliography of the Social Sciences; PAIS-Public Affairs Information Service; Sociological Abstracts; Social Planning, Policy and Development Abstracts and Reviews; Peace Research Abstracts Journal; ICSSR Journal of Abstracts and Reviews; Sociology and Social Anthropology; International Bibliography of Periodical Literature; International Bibliography of Book Reviews; International Political Science Abstracts; EMBASE, Compendex, Geobase and Scopus and other derivative products such as Mosby Yearbooks. In addition, *The Cyprus Review* is available internationally via terminals accessing the Dialog, BRS and Data-Star databases. *The Cyprus Review* is disseminated via EBSCO, in their international research database service and subscription network of academic journals. It is assigned to EBSCO's EconLit database with full text. The journal's material is also distributed via ProQuest's products and services worldwide and is listed in the DEST Register of Refereed Journals.

Contributors	10-12
Letter from the Editor-in-Chief	14-16
ARTICLES	
PETROS LOIS, SPYROS REPOUSIS Preliminary Review of the Impact of COVID-19 on Cash in Greece and Cyprus	19-36
ROSSIDIS IOANNIS, BELIAS DIMITRIOS Evolution of e-Governance in the Era of the Pandemic. Will the Crisis Become an Opportunity? The Cases of Cyprus and Greece	37-66
GEORGIOS TSAOUSIS Moulding the Right to Health in the Time of the Pandemic	67-97
IOANNIS E. KASTANAS The Autonomy of Religious Communities and the Freedom of Worship in the Coronavirus Era. The example of the Orthodox Church of Cyprus	99-126
CHARIS VLADOS, DIMOS CHATZINIKOLAOU Evolutionary Transformation of the Global System and the COVID-19 Pandemic: The Search for a New Development Trajectory	127-166
VICKY KAPOGIANNI The Bifold Cypriot Facet: Echoes of the UN Peacekeeping Mechanisms and the Politico-Legal Policies in the COVID-19 Era	167-197
PETROS PETRIKKOS Pandemic Entanglement: COVID-19 and Hybrid Threats in the Republic of Cyprus	199-228
ANDREA MANOLI A Paradox or a Long-Standing Reality? A Pandemic Within A Pandemic	229-257

BOOK REVIEWS

ACHILLES C. EMILIANIDES

The legal world of Polyvios Polyviou.

A review of 11 books published between 2016-2021

261-271

KATERINA ELIA

Maritime Claims and Boundary Delimitation:

Tensions and Trends in the Eastern Mediterranean Sea

by Nicholas A. Ioannides

273-274

Call for Papers

275-278



CONTRIBUTORS

Dimitrios Belias: Assistant Professor in the Department of Business Administration, at the University of Thessaly, Greece. He specializes on the organisation and services management in the tourist market. He has authored 169 published papers. His work is internationally recognized as it has more than 1000 references and h-index 21.

Dimos Chatzinikolaou: PhD candidate in the Department of Economics of Democritus University of Thrace. His research focuses on competitiveness, business eco-systems, and industrial policy. He is the co-author of more than 40 scientific articles in peer-reviewed scientific journals and conference proceedings while his main areas of research include, among others, the fields of globalisation, competitiveness, economic policy, and entrepreneurship.

Katerina Elia: PhD candidate at the University of Athens, focusing on international law of the sea, especially on maritime boundaries delimitation law. Katerina holds an LLB from the University of Leeds, a BA (History and Archaeology) from the University of Athens and a MA (Political Science and International Relations) from the University of Cyprus. Katerina is a practicing lawyer and a member of the Cyprus Bar Association and the Honourable Society of Lincoln's Inn.

Achilles C. Emilianides: Dean, Professor, School of Law of the University of Nicosia. Dean Emilianides is a Founding Member and the First Secretary-General of the-Cyprus Academy of Sciences, Letters and Arts, Member of the European Academy of Sciences and Arts and practising advocate. His major recent publications include: Civil Procedure in Cyprus (2019), Constitutional Law in Cyprus (2nd edn. 2019), Religion and Law in Cyprus (3rd edn., 2019), Family and Succession Law in Cyprus (2nd edn., 2019), Labour Law in Cyprus (2nd edn., 2019), Media Law in Cyprus (2nd edn., 2019), Public Administration after the Crisis (ed., 2019), Law and Literature (ed. 2019).

Vicky Kapogianni: Associate Lecturer in Law, School of Management, Cardiff Metropolitan University. The landscape of her academic background is shaped by a multidisciplinary exploration of the evolution of EU and International Public Law, International Relations theories and practices along with mechanisms in peacebuilding and sustaining peace.

Ioannis Kastanas: Postdoctoral Researcher and Adjunct Faculty at the School of Law of the University of Nicosia. He holds a PhD of the University of Athens. He is also a Greek qualified attorney at the Court of Appeal. He holds two Masters degrees, one in Ecclesiastical law from the Law School of Athens and another in Public law from Paris II Pantheon-Assas University.

Petros Lois: Professor at the School of Business, University of Nicosia, (Cyprus, EU). He holds MSc and PhD degrees and he also holds the professional title of Certified Management Accountant (CMA). Prof. Lois is currently the Head of the Department of Accounting at the University of Nicosia, the Director of the Master's degree in Banking, Accounting and Finance (Joint degree with the Hellenic Open University), and holds the Chair of PwC in Business Research at the University of Nicosia. Prof. Lois is also a member of various professional bodies and served as a member of the Board of Directors at the Cyprus Port Authority. He is Co-Founder of the "Euromed Journal of Business" (Emerald Publications). His research work has been published in international conference proceedings, books and academic journals.

Andrea Manoli: PhD candidate and associate lecturer at the University of Central Lancashire (Cyprus campus) and research fellow of the Jean Monnet Module 'EU-POP' and the Interdisciplinary Journal of Populism. Her research interests include human rights, criminal law and history of laws. She holds an LLM in International Commercial Law, an MA in Security and Diplomacy, and a TELF. She is also a certified arbitrator.

Petros Petrikkos: PhD candidate, Department of Politics and Governance, School of Law, University of Nicosia. He is a Research Associate at the Diplomatic Academy of the University of Nicosia, and a political, defence, and foreign policy analyst and researcher. He also serves as a Managing and Reviews Editor at the Studies in Ethnicity and Nationalism Journal at ASEN. He holds an MSc in Conflict Studies from the London School of Economics and Political Science and a BA in International Relations from Queen Mary, University of London.

Spyros Repousis: Adjunct Faculty at the School of Business, University of Nicosia (Cyprus). He received his BA degree in Economics from Athens University of Economics and Business, an M.Sc. degree in Banking and Finance from University of Stirling, Scotland, an MBA degree and an M.A. degree in International Relations and European Studies from University of Nicosia, and his Ph.D. in Economics from University of Peloponnese. He is working for 25 years, most of it in banking sector and is teaching for 15 years.

Ioannis Rossidis: Adjunct Faculty, University of Nicosia. He is an administrative scientist. He has been teaching over the last decade in undergraduate and post graduate programs in various Greek and Cypriot universities. He has contributed to various conferences while he has authored numerous published papers (97 in total). His research interests are public management, administrative science, e-governance.

Giorgos Tsaousis: Lecturer at the School of Law of the University of Nicosia. He holds a PhD from the University of Burgundy (France) and an LLM from the same University. He is a Greek qualified lawyer before the Supreme Court and his research interests focus on public law, human rights, and data protection.

Charis Vlados: Lecturer, Department of Economics, Democritus University of Thrace. He obtained his PhD (Mention très honorable) for his thesis on the evolutionary integration of the Greek enterprises into globalisation, which took place in C.E.R.E.M of Paris X-, Nanterre. He has established and developed the 'Stra.Tech. Man approach' in the field of business dynamics. He has authored 13 books and has more than 100 scientific contributions in academic research and business consulting.

**LETTER
FROM THE
EDITOR-
IN-CHIEF**

Dear Readers,

As the COVID-19 pandemic continues to be part of our daily lives, one can safely conclude that by now it has affected us all in one way or another. At a global scale, the pandemic has deeply penetrated people's lives far beyond the mere health perspective. As societies worldwide have had to adapt to a 'new reality' and become part of a 'new normal', people were forced to accept new working realities and social norms. At the same time, the socio-economic, as well as the political landscapes, came face to face with many new challenges. In response to this, we decided to devote a Special Issue to the ongoing scientific debate on the foundational questions raised by the pandemic, the threats, challenges, and possible opportunities created, as well as the doctrinal assessment of the systemic responses provided vis-à-vis this latest predicament.

This Special Issue is entitled '*COVID-19 in Doctrinal Context: Analysing, Theorising, and Surpassing the Pandemic Crisis*' and includes eight papers in total that view the effects of the pandemic from a wide variety of thematic angles. It begins with an article by Petros Lois and Spyros Repousis, which is an original study on cashless society and the impact of COVID-19 on cash in Greece and Cyprus. This is followed by Ioannis Rossidis and Dimitrios Belias' contribution, which looks into the prospect of transforming the pandemic crisis into an opportunity for administrative upgrading. The article by Giorgos Tsaousis, which immediately follows, discusses the implications of the pandemic on human rights and the right to health. Ioannis Kastanas' contribution to this Special Issue touches upon the effects of the pandemic on the autonomy of religious institutions, using the Orthodox Church of Cyprus as a case study. Charis Vlados and Dimos Chatzinikolaou examine some of the recent sociological and economic implications of the pandemic in the context of global transformation. This is followed by Vasiliki Kapogianni's discussion of the UN peacekeeping mechanisms and the political-legal stakes of policies implemented in Cyprus during the pandemic. In the final two articles, Petros Petrikos explores the effects of the pandemic on hybrid threats faced by Cyprus, and Andrea Manoli studies the effects of the pandemic on domestic violence in the Cypriot context.

As always, the Issue signs off with the customary Book Review Section, which this time features, among others, an impressive review of 11 legal books by Polyvios (Polys) Polyviou published between 2016-21, as well as our latest Calls for Papers. With the objective of contributing to the development and proliferation of studies on minority questions focusing on Cyprus, our first Call for Papers is entitled '*Minority Groups in Cyprus: A Critical Reappraisal*'. Our second Call for Papers is entitled '*The State and Organised Social Groups in the Republic of Cyprus*', and it intends to serve as a platform for inter-disciplinary studies in the domain of institutions and the nature, quality and challenges of contemporary democracy in Cyprus.

Christina Ioannou
Editor-in-Chief

ARTICLES

Preliminary Review of the Impact of COVID-19 on Cash in Greece and Cyprus

PETROS LOIS¹, SPYROS REPOUSIS²

Abstract

The purpose of this paper is to carry out a preliminary review of the existing literature about cashless society and the impact of COVID-19 on cash in Greece and Cyprus. A 'war on cash' will soon take place, as cash is thought of as a curse, and paper money is thought of as being unsanitary due to the coronavirus outbreak. Coins and paper currencies are considered a risk for public health, although transmission probability is low, compared with other more commonly touched objects. Data about the use of cash are being analysed.

The ratio of cash to GDP in Greece and Cyprus from 2010 to 2020 increased rather than decreased and is above other countries. Cash is a convenient method of payment for low-value payments. Ratio is lower in Cyprus than in Greece and both countries have a high cash to GDP ratio in comparison with other digitalised countries, such as Sweden, while the number of confirmed cases and deaths from the coronavirus for Greece and Cyprus until the end of May 2021 were lower than expected. The population in Greece and Sweden is about the same (10.38 million people in Sweden and 10.42 million people in Greece). In the future, technological developments about payments will have an impact on cash usage all over the world. The coronavirus pandemic will increase the need to support cash and, at the same time, call for digital currencies from a central bank.

Keywords: coronavirus, COVID-19, SARS-CoV-2, cashless society, paper money, digital money, Greece, Cyprus

Introduction

In just a few weeks, the coronavirus (or COVID-19 or SARS-CoV-2), began in China and then spread worldwide. Many described it as an unpredictable and very rare event but with extremely bad and severe consequences.

¹ Professor and Head of the Department of Accounting, School of Business, University of Nicosia.

² Adjunct Faculty, School of Business, University of Nicosia.

According to the World Health Organization (WHO) Dashboard about the coronavirus disease (COVID-19), there had been 169,118,995 confirmed cases and 3,519,175 deaths all over the world until 29 May 2021. According to the same COVID-19 Dashboard, the USA was the first country with the highest number of confirmed cases and the highest number of deaths (Table 1).

Table 1. COVID-19 Dashboard in selected countries

Country	Confirmed cases	Deaths
USA (29 th May 2021)	32,891,410	587,549
India (29 th May 2021)	27,729,247	322,512
Brazil (29 th May 2021)	16,342,162	456,674
Germany (29 th May 2021)	3,675,296	88,350
China (29 th May 2021)	110,263	4,924
Sweden (29 th May 2021)	1,068,473	14,451
Greece (29 th May 2021)	398,898	11,995
Cyprus (29 th May 2021)	72,159	357

Source: World Health Organization

Economic policy will need to shift³ from its current status and focus on efficiency, sustainability and a more centralised governance to address public-health matters. Europe is capable of establishing a centre for the prevention of large-scale risks.

With specific reference made to payment services, the European Banking Authority (EBA)⁴ encourages all parts, consumers and companies to undertake all necessary sanitary precautions when using point of sales (POS) terminals, Personal Identification Numbers (PIN) or make calls on payment services providers to support measures that can reduce the spread of the coronavirus and, to that end, facilitate contactless payments. Additionally, the EBA encourages to increase the transaction limit up to a maximum of EUR 50 per transaction.

³ Andrea Renda, Rosa J. Castro, 'Chronicle of a Pandemic Foretold' (March 2020) 5 *CEPS*..

⁴ European Banking Authority, 'Statement on Consumer and Payment Issues in Light of COVID19' (25 March 2020, available at: https://eba.europa.eu/sites/default/documents/files/document_library/News%20and%20Press/Press%20Room/Press%20Releases/2020/EBA%20provides%20clarity%20to%20banks%20and%20consumers%20on%20the%20application%20of%20the%20prudential%20framework%20in%20light%20of%20COVID-19%20measures/Statement%20on%20consumer%20protection%20and%20payments%20in%20the%20COVID19%20crisis.pdf (last accessed 27 March 2020).

But why are we discussing coronavirus and cash? The purpose of this paper is to examine the literature review on cashless society and the coronavirus, as well as the use of cash in Greece and Cyprus. In the next section, a preliminary literature review will be presented, an analysis about the use of cash in Greece and Cyprus will follow, then conclusions will be drawn accordingly, and lastly, limitations and future research will be discussed.

Preliminary Literature Review

Money has taken many different forms throughout history. Some early societies valued goods in terms of cattle, shells, salt and precious metals like gold and silver for their use as money. But how did goods like these become money in the first place? Money arose from a need to address the inefficiency of barter, which requires the double coincidence of needs.

In the 19th century, the British economist Henry Thornton observed that coined money was valued more as a measure of the value of other goods than for its inherent value as a precious metal. Therefore, it was more efficient for societies to convert to paper notes to track the value of exchange.

In the 1970s, information technology (IT) entered the stage and marked the beginning of the digital revolution. Its advent meant that banking was no longer confined to the traditional way of recording and managing money and credit. The beginning of the digital revolution was followed by the rise of shadow banking, which is used to describe the variety of financial institutions and networks outside the traditional banking sector. At the outset of the financial crisis of 2007-2008, shadow banking was more important than traditional banking.⁵

Electronic cash-management services has been a critical element in the services of any financial institution for decades.⁶ Today, politicians, academics and people working in finance are currently engaged in a 'war on cash'.⁷ Also, arguments support that cash is technologically outdated and that limiting its use would lead to more efficient payment transactions.

⁵ Jonathan McMillan, *The End of Banking: Money, Credit and the Digital Revolution* (Zurich, Switzerland: Zero/One Economics GmbH, 2014).

⁶ Floyd E. Egener, *The Electronic Future of Banking* (Illinois, USA: Financial Sourcebooks, 1991).

⁷ Erwin Gladisch, 'The Use of Cash in Germany: Status and Outlook' in: Frank Rövekamp, Moritz Bälz, Hans Günther Hilpert (eds), *Financial and Monetary Policy Studies 44: Cash in East Asia* (Springer, 2017).

The American economist Kenneth Saul Rogoff⁸ advocates a move toward a society with less cash in his book *The Curse of Cash*. The book concludes there are benefits from a reduced use of cash since it discourages tax evasion and crime and enables governments and central banks to handle economic crises more effectively.

Cash plays a starring role in a broad range of criminal activities, including drug trafficking, racketeering, extortion, corruption of public officials, human trafficking, money laundering, and illegal immigration problems.⁹ At the end of 2015, 1.34 trillion US dollars was being held outside banks and 80% of it was in one-hundred-dollar bills.¹⁰

Another important reason to have less cash is that financial policies would no longer be limited by the zero lower bound (ZLB) interest rate. Cash makes it difficult to operate at interest rates below zero, because investors can turn to cash instead of investing in bonds with negative interest rates. Illegal activities such as organised crime, illegal immigration, and tax evasion cause serious problems to society and could be avoided or at least made less prominent if cash disappears.

Although cash is legal tender, it is a breeding ground for illegal practices due to its mobility and the difficulty of supervised transactions, while only deposits are legal tender. Cash, that is, physical currency, implies a ZLB on nominal interest rates.

Willem Buiter presented three solutions for implementing negative nominal interest rates.¹¹ All three solutions depend on reducing and finally eliminating free use of banknotes. The first solution is to ban banknotes as an outlaw. Money would consist only in bank deposits, and they would be ‘registered instruments’, as opposed to ‘bearer instruments’. The second solution is leaving coins and banknotes in circulation, but marking them periodically (stamped or taxed) to obtain negative interest rates. The last solution is about the attempt to separate the function of money as ‘numéraire’ from the function of money as a medium of exchange. So, existing money can be withdrawn from circulation and kept as legal tender only for monetary-calculation purposes, while new money would be denoted and introduced as a means of exchange. As far as money in circulation is concerned, ZLB

⁸ Kenneth Rogoff, *The Curse of Cash* (New Jersey: Princeton University Press, 2016).

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Willem H. Buiter, ‘Is Numéraireology the Future of Monetary Economics?’ (2007) 18(2) *Open Economies Review* 127-156; *Id.*, ‘Negative Nominal Interest Rates: Three Ways to Overcome the Zero Lower Bound’ (2009) 20(3) *The North American Journal of Economics and Finance* 213-238; Willem H. Buiter, Nikolaos Panigirtzoglou, ‘Overcoming the Zero Bound on Nominal Interest Rates with Negative Interest on Currency: Gesell’s Solution’ (2003) 113(490) *The Economic Journal* 723-746.

would still cause problems and limit policy, but for old money in circulation there it would now be possible to implement negative nominal interest rates.¹²

Rogoff¹³ presents a top-down driven plan about the way central banks and governments can address the trend toward a cash-free economy and society. The first step is to phase out large value bills until only small bills or even coins remain. The second step is about developing policies ensuring financial inclusion for all, as a situation promoting digital divide and financial exclusion is simply not acceptable. The last step is to enforce a regulatory framework that will ensure integrity and privacy in electronic payments. Money and payment methods are based on trust, and making electronic payments must also be based on trust, privacy, and integrity. The last step therefore lies on the development of appropriate infrastructure, such as clearing and settlement systems, that enables real-time payments or close to real-time payments. Rogoff accepts that stopping cash entirely is a slow and gradual process with no clear aim.

Also, nowadays a strong substitution of cash is taking place. Mobile payment methods and services such as Swish or iZettle, can replace cash payments, meaning that the use of cash is rapidly decreasing. The value of cash in circulation in Swedish crowns dropped about 50% between its peak in 2007 and the low figures of 2018.¹⁴ Sweden became the country with the lowest use of cash in the world. A cashless economy and digital money must, first and foremost, persuade the community to use it and win people's trust.

Now, banks are even reducing the services offered for cash handling. By 2016, more than 50% of bank retail offices had stopped providing cash handling services.¹⁵ Past studies show that banks may earn significant profits on electronic-payment services such as card payments, but they do not make much profit on cash-based services.¹⁶

The Electronic Funds Transfer (EFT) system did not do any money creating; it merely moved around what was already there in bank accounts in deposit form, but

¹² Buiter, 'Negative Nominal Interest Rates: Three Ways to Overcome the Zero Lower Bound (no 9).

¹³ Rogoff (no 6).

¹⁴ Niklas Arvidsson, *Building a Cashless Society: The Swedish Route to the Future of Cash Payments* (Switzerland: Springer, 2019).

¹⁵ Länsstyrelserna, 'Bevakning av grundläggande betalningstjänster 2016' ('Rapport') (Falun: Länsstyrelsen i Dalarna, 2016) (in Swedish).

¹⁶ Gabriela Guiborg, Björn Segendorf, 'A Note on the Price- and Cost Structure of Retail Payment Services in the Swedish Banking Sector 2002' (2007) 31 *Journal of Banking and Finance* 2817–2827.

much faster. EFT gave us ‘fast money flows’ and, eventually, ‘virtual money’.¹⁷ With EFT travel, the money in bank deposits doesn’t change; it simply moves around a little differently. The new cyber money rests outside the usual bank deposit or cash niches. Electronic money has a shadow existence of its own and may take many forms; some bank offered, some not.

Clearly, electronic money has no physical presence, so cash is excluded. People can readily distinguish between cash and electronic cash. Cash is legal tender, but electronic cash has not reached the point of legal tender status yet from the perspective of legislature. The former has a physical presence; the latter is without it. When returned to the banking system, cash is part of a reserve base; electronic money is certainly quite apart from anything either esteemed as a monetary standard

Most people react about the same way when they first start thinking about digital money and a cashless, paperless, and coinless economy. They go through a sort of Kubler-Ross model: stage one is disdain, stage two is skepticism, stage three is curiosity, stage four is crystallisation, and stage five is acceptance¹⁸

The issue of financial privacy is potentially explosive. As long as digital money and cards are less than one hundred percent secure, sensitive financial and other information could be plundered by cyberpirates.¹⁹ A cashless society also is also exposed to dangers and potential negative effects, such as the proliferation of underground financing through the hawala system and organised criminal channels, the increased use of Bitcoin, the more difficult task of tracking currency through bank-reporting requirements, and the potential effect of increasing other crimes which are harder to track.²⁰

Especially when addressing corruption, money laundering and bribery, there is a need for banks to implement a code of conduct and a code of ethics for staff, staff training, signature verification, control over dormant accounts, asking employees

¹⁷ Elinor H. Solomon, *Virtual Money: Understanding the Power and Risks of Money’s High-Speed Journey into Electronic Space* (New York: Oxford University Press, 1997).

¹⁸ Vigna P., M. J. Casey, *Cryptocurrency: How Bitcoin and Digital Money are Challenging the Global Economic Order* (London: Bodley Head, 2015).

¹⁹ Jack M. Kaplan, *Smart Cards: The Global Information Passport* (New York: International Thomson Computer Press, 1996).

²⁰ Joseph W. Rivera, ‘Potential Negative Effects of a Cashless Society: Turning Citizens into Criminals and Other Economic Dangers’ (2019) 22(2) *Journal of Money Laundering Control* 350-358.

for their opinions on the bank and the way they feel about it, conducting surprise audits, and using a hotline for whistleblowing.²¹

Over the past decade, the media have regularly reported on the imminent ‘death’ of cash amidst rapid innovation in payment technologies. Study supports that cash-based transactions have been losing in popularity due to the high cost associated to maintaining the cash system and due to its numerous risks.²² Also, it seems that the difference between the overestimation of the cost of cash and the actual cost of card payments is not as big as it seems.²³ Economists have a stronger rationale in terms of managing interest rates. The strengths of those arguments vary, and what is really missing is the transition phase, the consumers’ ability to change payment methods, and a risk analysis.

Generally speaking, academics are rooting for the abolition of cash, stating that cash is a curse,²⁴ and that money is dirty.²⁵ Banknotes can be laden with harmful bacteria, such as methicillin-resistant *Staphylococcus aureus*, *Bacillus cereus*, influenza viruses, yeast, fungi, human excreta, mold, and even cocaine and heroin.²⁶ COVID-19 has raised public concerns concerning its transmission through cash. Coronavirus can persist for three hours in the air, 24 hours on cardboard and survive even longer on other hard surfaces.²⁷

If associated with the simultaneous handling of food coins and paper currency may be a risk for public health and could lead to the spread of nosocomial infections. Banknotes recovered from hospitals may be highly contaminated with *Staphylococcus aureus*, *Salmonella* species, and *Escherichia coli*, which are commonly isolated in banknotes from food outlets.²⁸ Laboratory simulations revealed that methicillin-resistant *S. aureus* can easily survive on coins, whereas *E. coli*, *Salmo-*

²¹ Petros Lois, Spyridon Repousis, Varvara Veli, ‘An Investigation of the Fraud Risk and Fraud Scheme Methods in Greek Commercial Banks’ (2019) 22(1) *Journal of Money Laundering Control* 53-61.

²² Zaheer Allam, ‘The Forceful Reevaluation of Cash-Based Transactions by COVID-19 and Its Opportunities to Transition to Cashless Systems in Digital Urban Networks’ (2020) *Surveying the Covid-19 Pandemic and its Implications* 107-117.

²³ Eric De Putter, ‘Cashless Society – Really?’ (2016) 10(3) *Journal of Payment Strategy* 245-252.

²⁴ Rogoff (no 6).

²⁵ Zura Kakushadze, Jim K-S. Liew, ‘Coronavirus: Case for Digital Money?’ (2020) 21(1) *World Economics*, available at: <https://ssrn.com/abstract=3554496> (last accessed 30 March 2020).

²⁶ *Ibid.*

²⁷ Neeltje van Doremalen et al., ‘Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1’, (17 March 2020) *The New England Journal of Medicine*.

²⁸ Emmanouil Angelakis et al., ‘Paper Money and Coins as Potential Vectors of Transmissible Disease’ (2014) 9(2) *Future Microbiology* 249-261.

nella species, and viruses, including the human influenza virus, Norovirus, Rhinovirus, hepatitis A virus, and Rotavirus, can be transmitted through hand contact. Large-scale 16S rRNA, metagenomic studies and culturomics have the capacity to dramatically expand the known diversity of bacteria and viruses on money and fomites. The review²⁹ summarises on the potential of paper currency and coins to serve as sources of pathogenic agents.

Another study examined 1,280 banknotes exclusively obtained from food outlets in ten different countries and their bacterial content was enumerated.³⁰ Presence of bacteria on banknotes was found to be influenced by the material of the notes, while there was a strong correlation between the number of bacteria per square centimetre and a series of indicators of economic prosperity among the various countries. Paper money was screened for the presence of a range of pathogens, and the results showed that pathogens can only be isolated after enrichment, while their mere presence does not appear to be alarming. Hence, handling food and money must be physically separated.

In the USA, banknotes in circulation are contaminated with cocaine.³¹ Several theories have been offered to explain this finding, including contamination due to cash handling during drug deals and the use of rolled up bills for snorting. The drug is then transferred from one contaminated bill to the other, and so on and so forth, during counting in financial institutions.

In another study, one-dollar bills were collected from the general community in western Ohio to carry out a survey on bacterial contamination.³² Pathogenic or potentially pathogenic organisms were detected in 94% of the bills. These results suggest a high rate of bacterial contamination in one-dollar bills. The fibrous surfaces of US currency provide ample crevices for bacteria to make themselves at home³³ and the longer any of that money stays in circulation, the more likely it is for it to

²⁹ Ibid

³⁰ Frank Vriesekoop et al., 'Dirty Money: An Investigation into the Hygiene Status of Some of the World's Currencies as Obtained from Food Outlets' (2010) 7(12) *Foodborne Pathogens and Disease* 1497-1502.

³¹ A.J., Jenkins, 'Drug Contamination of US Paper Currency' (2001) 121(3) *Forensic Science International* 189-193.

³² Theodore Pope et al., 'Bacterial Contamination of Paper Currency' (2002) 95(12) *Southern Medical Journal* 1408-1410.

³³ Dina Fine Maron, 'Dirty Money: The Public Health Case for a Cashless Society' *Scientific American* (3 January 2017), available at: <https://www.scientificamerican.com/article/dirty-money/> (last accessed 31 March 2020).

become contaminated. Lower-denomination bills are used more often, so studies suggest our ones, fives and tens are more likely to be teeming with disease-causing bacteria. Some of these pathogens are known to survive for months, according to a recent review of ‘dirty money’ studies. The carrier of cash is therefore not protected against pathogens such as COVID-19 possibly lurking on the surfaces of banknotes.

Forecasting of the epidemic outbreak and the number of deaths was not good. But epidemic forecasting has a dubious track-record, and its failures became more prominent with COVID-19. Poor data input, wrong modelling assumptions, high sensitivity of estimates, lack of incorporation of epidemiological features, poor past evidence on effects of available interventions, lack of transparency, errors, lack of determinacy, looking at only one or a few dimensions of the problem at hand, lack of expertise in crucial disciplines, groupthink and the bandwagon effect, as well as selective reporting are some of the causes of these failures.³⁴

Central banks have resorted to quarantining physical bills and some are even going as far as to burn banknotes.³⁵ South Korea’s central bank, the Bank of Korea, has implemented a quarantine policy for physical notes that come in from local banks. Banknotes are kept in a safe for up to two weeks, given “that the [SARS-CoV-2, which causes the COVID-19 disease] virus usually dies in nine days’.

As early as 15 February, Chinese lenders were asked by the government to both disinfect bills and keep them in a safe for up to 14 days, depending on what region they came from. The Federal Reserve has also begun setting aside US dollar banknotes from Asia for 7-10 days before re-circulating them into the economy. The Bank of England has acknowledged that banknotes in circulation can hold ‘bacteria and viruses’ and recommended that people wash their hands after handling money. This is why, among other reasons, China is so rigorous about hand washing as a way to reduce infections in general. Regular handwashing reduces respiratory diseases, such as colds, in the general population. As a matter of fact, the People’s Bank of China announced the implementation of a new strategy to contain the virus: deep cleaning and destroying potentially infected cash.³⁶ All Chinese banks must launder

³⁴ John P.A. Ioannidis, Sally Cripps, Martin A. Tanner, ‘Forecasting for COVID-19 has failed’(published online ahead of print, 25 August 2020) *International Journal of Forecasting*, doi: 10.1016/j.ijforecast.2020.08.004.

³⁵ Roger Huang, ‘WHO Encourages Use Of Contactless Payments Due To COVID-19’, (*Forbes*, 9 March 2020), available at : <https://www.forbes.com/sites/rogerhuang/2020/03/09/who-encourages-use-of-digital-payments-due-to-covid-19/#1d3090ef41eb> (last accessed 30 March, 2020).

³⁶ Jessie Yeung, ‘China is Disinfecting and Destroying Cash to Contain the Coronavirus’ *CNN Business* (17 February 2020) available at: <https://edition.cnn.com/2020/02/17/asia/china-is-disinfect->

their cash by disinfecting it with ultraviolet light and high temperatures and then storing it for up to two weeks before releasing it to customers.

Because of this concern of COVID-19 potentially spreading infection through physical banknotes, a spokesperson of WHO has reportedly told the Telegraph that ‘people should use contactless [payment] technology where possible’.³⁷

But, since the discussion is revolving around health, it is interesting to note that another aspect that arose from cashless payments is the reduced attention to decision risks and shoppers spending more money on unhealthy food (i.e. highly palatable food with health risks).³⁸

Another study³⁹ discusses the advantages of adapting government-issued digital currencies as well as a supranational digital, namely iCurrency. One such advantage is to get rid of paper money (and coinage), a ubiquitous medium for spreading germs, as highlighted by the recent coronavirus outbreak. The researchers set forth three policy recommendations for adapting mobile devices as new digital wallets: (i) regulatory oversight of sovereign digital currencies, (ii) user data protection and (iii) a supranational digital iCurrency for facilitating international digital monetary linkages.

Scientific evidence suggests that the probability of the transmission of virus via banknotes is low when compared with other frequently touched objects, such as credit-card terminals or PIN pads.⁴⁰ To bolster trust in cash, central banks are actively communicating, urging continued acceptance of cash and, in some instances, sterilising or quarantining banknotes. Some encourage contactless payments.

While the economic shutdowns and increased use of online retailing are currently diminishing the traditional function of cash as a medium of exchange, it seems that it is offset by panic-driven hoarding of banknotes.⁴¹ However, cash in circulation has actually been growing strong in many countries. Due to the COV-

ing-cash-coronavirus-intl-hnk-scli/index.html (last accessed 29 March 2020).

³⁷ Huang (no 31).

³⁸ Joowon Park, Clarence Lee, Manoj Thomas, ‘Why Do Cashless Payments Increase Unhealthy Consumption? The Decision-Risk Inattention Hypothesis’ (2020) 6(1) *Journal of the Association for Consumer Research* 21-32.

³⁹ Kakushadze, Liew (no 22).

⁴⁰ Raphael Auer, Giulio Cornelli, Jon Frost, ‘Covid-19, Cash, and the Future of Payments’ (3 April 2020) 3 *Bank for International Settlements Bulletin*.

⁴¹ Charles Goodhart, Jonathan Ashworth,, ‘Coronavirus Panic Fuels a Surge in Cash Demand’ (2020) Discussion Paper 14910, *Centre for Economic Policy Research*.

ID-19 pandemic, consumer spending declined significantly across all methods of payment such as cash, debit, credit, etc.⁴²

On the other hand, research shows that outstanding cash in Canada increased sharply from March through September 2020 and the pandemic significantly increased the demand for bank notes, while this has also been the case in other advanced economies, including Australia, Germany, New Zealand, the United Kingdom and the USA.⁴³ This suggests that store of value was an important factor in these developments.

Use of Cash in Greece and Cyprus

As Constantinescu (2019).⁴⁴ reports, share of the worldwide transactions with cash has reduced to 77% in the past five years. Also, share of credit and debit cards usage has increased to about 9% from a 5%. During 2019, banknotes and coins in circulation in Europe outside banks accounted to 1,231.47 billion Euros (Table 2).

Table 2. Money stock available for payments in Europe

(Euro billions, end of year)	2014	2015	2016	2017	2018	2019
Banknotes and coins (or currency) in circulation outside banks	980.63	1,048.93	1,087.49	1,123.21	1,175.44	1,231.47

Source: Bank for International Settlements, (2020), T2: Stock of money available for payments

During the next five years, a downward trend of cash usage worldwide will be more emphasised due to the push toward real-time payments, the wide variety of payment options, and the evolution of digital commerce. In 2017, 66% of adults in Cyprus used electronic payments versus above 95% of adults in the top-10 ranked countries, such as Norway (99%), New Zealand (96%) and Canada (97%).⁴⁵ Similar-

⁴² Heng Chen et al., 'Cash and COVID-19: The Effects of Lifting Containment Measures on Cash Demand and Use' (2 March 2021) Staff Discussion Paper, *Bank of Canada*.

⁴³ Ibid.

⁴⁴ Constantinescu, P., 'Cash Payments Cash in Today's World – The Times They Are A-Changin' (2019) in European Payments Council, *The PayPers: Insights into Payments, Payment Methods Report 2019*, 73-76.

⁴⁵ International Monetary Fund, 'Cyprus: Selected Issues' (December 2019) 2019(363) *International Monetary Fund*, available at: [https://www.elibrary.imf.org/view/IMF002/28553-9781513522067/28553-9781513522067_A002.xml?redirect=true](https://www.elibrary.imf.org/view/IMF002/28553-9781513522067/28553-9781513522067/28553-9781513522067_A002.xml?redirect=true) (last accessed 5 April 2020).

ly, only 8% of adults in Cyprus have used mobile payment, contrary to above 25% of adults in the top-10 ranked countries, such as Australia (27%), the USA (28%), and Sweden (30.5%).

The ratio of cash to Gross Domestic Product (GDP) could serve as an indicator of the extent to which cash is used.⁴⁶ Although there is a talk of a ‘cashless society’ over the last decades, cash is still here and is far from gone. The cash to GDP ratio has noticeably increased in Greece during the last decade from 9.09% in 2010 to 19.07% in 2020, and the reason is not only that the GDP reduced but also that cash in circulation increased even during the COVID-19 pandemic period of 2020 and is still rising in 2021 (Table 3).

Table 3. Cash to GDP ratio in Greece (end of year, in million Euros)

Year	Cash in Circulation (Mo)	Gross Domestic Product (GDP in current prices)	Cash to GDP ratio
2010	20,383	224,124	9.09%
2011	21,370	203,308	10.51%
2012	21,820	188,389	11.58%
2013	23,366	179,616	13.01%
2014	26,050	177,349	14.69%
2015	27,828	176,110	15.80%
2016	28,966	174,237	16.62%
2017	30,070	177,152	16.97%
2018	31,761	179,727	17.67%
2019	28,353	183,413	15.46%
2020	31,620	165,830	19.07%
End February 2021	31,753	N/A	N/A

Source: Data from Bank of Greece and Hellenic Statistical Authority, 2021

Also, the demand for cash increased as a safety precaution due to capital controls (June 2015), the risk of Greece exiting the Eurozone, and as a privacy motive. At the same time the number of ATMs machines in Greece decreased from 7,072 in

⁴⁶ Masaaki Shirakawa, ‘The Use of Cash in Europe and East Asia’ in Frank Rövekamp, Moritz Bälz M., Hans Günther Hilpert (eds), *Financial and Monetary Policy Studies 44: Cash in East Asia*, Springer, 2017).

2010 to 5,625 by the end of 2018⁴⁷ (Hellenic Bank Association, 2020). Cash in circulation in Greece during 2018 accounted to 2.70% of European cash circulation.

Cash in circulation varies in Cyprus. The cash to GDP ratio increased during 2013-2015 due to the economic crisis in Cyprus, a ‘haircut’ in bank deposits above 100,000 Euros, and increased fears about the stability of the financial system (Table 4). Citizens were not confident that using their bank accounts was always a safe and available option on the occasion of extreme events.

The experience of the Cypriot bank bailins improved liquidity and capital adequacy of banks but left citizens feeling that a financial system without an alternative means of exchange for bank deposits is not robust enough. Therefore, depositors preferred to shift and withdraw cash outside Cypriot banks. Cash in circulation in Cyprus during 2018 accounted only to 0.21% of European cash in circulation. In any case, the ratio of cash to GDP is lower in Cyprus than in Greece.

Table 4. Cash to GDP ratio in Cyprus (end of year, in million Euros)

Year	Cash in Circulation (Mo)	Gross Domestic Product (GDP in current prices)	Cash to GDP ratio
2010	1,607	19,410	8.28%
2011	1,696	19,803	8.56%
2012	1,739	19,440	8.95%
2013	1,787	17,995	9.93%
2014	2,127	17,430	12.20%
2015	2,252	17,883	12.59%
2016	2,225	18,929	11.75%
2017	2,313	20,119	11.50%
2018	2,432	21,432	11.35%
2019	2,566	22,287	11.51%

Source: Data from Central Bank of Cyprus and CEICData/IMF

The ratio cash to GDP demonstrated a close relationship between cash and citizens of the sample countries. It raises some interesting questions for future research about the role of cash and *why* cash usage is increasing rather than decreasing. The declining interest rate and the negative rate in Greece and Cyprus have increased the demand for cash because the opportunity cost of holding cash has

⁴⁷ Hellenic Bank Association, ‘Greek Banking System Structure/ATM Network’ (Athens: HBA, 2020). website: www.hba.gr

decreased significantly. Cash cannot be hacked, it is still convenient for small payments (such as person-to-person transactions), it doesn't rely on POS technological developments, and it is user friendly and accessible, popular, trusted and reliable. Also, unofficial payments in cash causes tax gaps and great costs. Although cash is still king, it is increasingly seen as a way to store value rather than make payments.

Conclusions

Money and the monetary system are an important form of the infrastructure of economies and societies. The purpose of this paper was to review the existing literature about cashless society and the coronavirus, as well as the use of cash in Greece and Cyprus. A 'war on cash' will soon take place, as cash is considered a curse and paper money is seen as being dirty. Coins and paper currencies are thought to be a risk for public health, although transmission probability is low compared with other frequently touched objects. Perhaps countries with a high cash to GDP ratio may face more problems related to the coronavirus.

The ratio of cash to GDP increased rather than decreased in Greece and Cyprus during 2010-2020 and is above other countries, despite popular talk of the 'advent of cashless society'. Both countries have high cash to GDP ratio in comparison with other digitalised countries, such as Sweden, and the number of confirmed cases and deaths from the coronavirus were lower. More coronavirus-related problems were expected in countries with a higher cash to GDP ratio, but this is not the case in Greece and Cyprus.

Today, cash all over the world is still the main payment method at the checkout, even if there is a tendency to shift from cash to cards and electronic wallets. Technological developments regarding payments will surely have a great impact to cash usage. This may cause a divide in the access to payments instruments, with a negative impact on older and unbanked consumers. The coronavirus pandemic may not only amplify calls to defend the role of cash but also encourage calls for digital currencies regulated by a central bank.

Limitations and Future Research

The practical implications arising from this study are important in helping society and policy makers better understand the impact of COVID-19 on cash, and especially so in Greece and Cyprus in comparison with other countries such as Sweden, which is a more digitalised country. An important limitation of this study is that the COVID-19 pandemic is an ongoing situation and results may vary in future. Also,

more data from more countries are necessary to better analyse the impact of COVID-19 on cash worldwide.

Scientific, business and various social circles have been concerned with the discussion about a cashless society for a long time⁴⁸ However, due to unavoidable incidents disrupting financial and health regularity, it is vital to be reminded of the ethical and societal factors when applying monetary strategies. The societal factors used as both a cause and an effect will aid in alleviating negative but justified reactions of citizens and legal entities. Furthermore, it is evident that multifactor solutions that ensure the administration of distributive as well as compensatory justice should be chosen. Future research that includes sociological, legal, and ethical factors could highlight a different approach which is closer to fair financial strategies based on the interests of citizens and businesses alike.

References

- Angelakis E. et al., 'Paper Money and Coins as Potential Vectors of Transmissible Disease' (2014) 9(2) *Future Microbiology* 249-261.
- Allam Z., 'The Forceful Reevaluation of Cash-Based Transactions by COVID-19 and Its Opportunities to Transition to Cashless Systems in Digital Urban Networks' (2020) *Surveying the Covid-19 Pandemic and its Implications* 107-117.
- Arvidsson N., *Building a Cashless Society: The Swedish Route to the Future of Cash Payments*, (Switzerland: Springer, 2019).
- Auer, R., G. Cornelli, J. Frost, 'Covid-19, Cash, and the Future of Payments' (3 April 2020) 3 *Bank for International Settlements Bulletin*.
- Bank of Greece, *Annual Reports 2009, 2010, 2011, 2012, 2013* (in Greek language).
Website: www.bankofgreece.gr
- Bank for International Settlements, 'T2: Stock of Money Available for Payments' (2020), available at: <https://stats.bis.org/statx/srs/table/T2?c=XM> (last accessed 6 April 2020).
- Buiter W. H., 'Is Numeraire the Future of Monetary Economics?' (2007) 18(2) *Open Economies Review* 127-156.
- Buiter, W. H., 'Negative Nominal Interest Rates: Three Ways to Overcome the Zero Lower Bound' (2009) 20(3) *The North American Journal of Economics and Finance* 213-238.

⁴⁸ Goodin R., 'Compensation and Redistribution' in J. Chapman (ed.), *Compensatory Justice: Nomos XXXIII* (New York; London: NYU Press, 1991) 143-177, available at: <http://www.jstor.org/stable/j.ctt9qfzn3.10> (last accessed 20 May 2021).

- Buiter W. H., N. Panigirtzoglou, 'Overcoming the Zero Bound on Nominal Interest Rates with Negative Interest on Currency: Gesell's Solution' (2003) 113(490) *The Economic Journal* 723-746.
- Constantinescu P., 'Cash Payments Cash in Today's World – The Times They Are A-Changin'', in European Payments Council, *The PayPers: Insights into Payments, Payment Methods Report 2019* 73-76.
- Chen H. et al., 'Cash and COVID-19: The Effects of Lifting Containment Measures on Cash Demand and Use' (2 March 2021) Staff Discussion Paper, *Bank of Canada*.
- Dias, (2020), *The Payment system* website: www.dias.com.gr
- Doremalen N et al., 'Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1' (17 March 2020) *The New England Journal of Medicine*.
- Egner F., *The electronic Future of Banking* (Illinois, USA: Financial Sourcebooks 1991).
- European Banking Authority, 'Statement on Consumer and Payment Issues in Light of COVID19' (25 March 2020), available at: https://eba.europa.eu/sites/default/documents/files/document_library/News%20and%20Press/Press%20Room/Press%20Releases/2020/EBA%20provides%20clarity%20to%20banks%20and%20consumers%20on%20the%20application%20of%20the%20prudential%20framework%20in%20light%20of%20COVID-19%20measures/Statement%20on%20consumer%20protection%20and%20payments%20in%20the%20COVID19%20crisis.pdf (last accessed 27 March, 2020).
- European Central Bank's Statistical Data Warehouse, (2020a), *Reports: Payments statistics, Greece*. Website: <https://sdw.ecb.europa.eu/reports.do?node=100000845>
- European Central Bank's Statistical Data Warehouse, (2020b), *Reports: Payments statistics, Cyprus*. Website: <https://sdw.ecb.europa.eu/browse.do?node=bbn1004>
- Goodhart C., J. Ashworth, 'Coronavirus Panic Fuels a Surge in Cash Demand' (2020) Discussion Paper 14910 *Centre for Economic Policy Research*..
- Goodin R., 'Compensation and Redistribution' in J. Chapman (ed.), *Compensatory Justice: Nomos XXXIII* (New York; London: NYU Press, 1991) 143-177, available at: <http://www.jstor.org/stable/j.ctt9qfzn3.10> (last accessed 20 May 2021).

- Gladisch E., 'The Use of Cash in Germany: Status and Outlook' in F. Rövekamp, M. Bälz, H. Hilpert (eds), *Financial and Monetary Policy Studies 44: Cash in East Asia* (Springer, 2017).
- Guiborg G., B. Segendorf, 'A Note on the Price- and Cost Structure of Retail Payment Services in the Swedish Banking Sector 2002' (2007) 31 *Journal of Banking and Finance* 2817–2827.
- Hellenic Bank Association 'Greek Banking System Structure/ATM Network' Athens: HBA, 2020).
- Huang R., 'WHO Encourages Use Of Contactless Payments Due To COVID-19' (*Forbes*, 9 March 2020), available at: <https://www.forbes.com/sites/rogerhuang/2020/03/09/who-encourages-use-of-digital-payments-due-to-covid-19/#1d3090ef41eb> (last accessed 30 March 2020).
- International Monetary Fund, 'Cyprus: Selected Issues' (December 2019) 2019(263) *International Monetary Fund*, available at: https://www.elibrary.imf.org/view/IMF002/28553-9781513522067/28553-9781513522067/28553-9781513522067_A002.xml?redirect=true (last accessed 5 April 2020).
- Ioannidis J. P.A, S. Cripps, M. Tanner, 'Forecasting for COVID-19 has failed' (published online ahead of print, 25 August 2020), *International Journal of Forecasting*, doi: 10.1016/j.ijforecast.2020.08.004.
- Jenkins A., 'Drug Contamination of US Paper Currency' (2001) 121(3) *Forensic Science International* 189-193.
- Kakushadze Z., J. K-S. Liew, 'Coronavirus: Case for Digital Money?' (2020) 21(1) *World Economics*, available at: <https://ssrn.com/abstract=3554496> (last accessed 30 March 2020).
- Kaplan J., *Smart Cards: The Global Information Passport* (New York: International Thomson Computer Press, 1996).
- Länsstyrelserna, 'Bevakning av grundläggande betalningstjänster 2016' ('Rapport') (Falun: Länsstyrelsen i Dalarna, 2016) (in Swedish)..
- Lois P., S. Repousis, V. Veli, 'An Investigation of the Fraud Risk and Fraud Scheme Methods in Greek Commercial Banks' (2019) 22(1) *Journal of Money Laundering Control* 53-61.
- Maron D.F., 'Dirty Money: The Public Health Case for a Cashless Society' *Scientific American* (3 January 2017), available at: <https://www.scientificamerican.com/article/dirty-money/> (last accessed 31 March 2020).

- McMillan J., *The End of Banking: Money, Credit and the Digital Revolution* (Zurich, Switzerland: Zero/One Economics GmbH, 2014)..
- Park J., C. Lee M. Thomas, 'Why Do Cashless Payments Increase Unhealthy Consumption? The Decision-Risk Inattention Hypothesis' (2020) 6(1) *Journal of the Association for Consumer Research* 21-32.
- Pope T., Ender P., Woelk W., Koroscil M., and Koroscil T., 'Bacterial Contamination of Paper Currency' (2002) 95(12) *Southern Medical Journal* 1408-1410.
- Putter E., 'Cashless Society – Really?' (2016) 10(3) *Journal of Payment Strategy and Systems* 245-252.
- Renda A., R. Castro, 'Chronicle of a Pandemic Foretold' (March 2020) 5 *CEPS*.
- Rivera J., 'Potential Negative Effects of a Cashless Society: Turning Citizens Into Criminals and Other Economic Dangers' (2019) 22(2) *Journal of Money Laundering Control* 350-358.
- Rogoff K., *The Curse of Cash* (New Jersey: Princeton University Press, 2016).
- Shirakawa M., 'The Use of Cash in Europe and East Asia' in F. Rövekamp, M. Bälz, H. Hilpert H. (eds), *Financial and Monetary Policy Studies 44: Cash in East Asia*, (Springer, 2017).
- Solomon E. H., 'Virtual Money: Understanding the Power and Risks of Money's High-Speed Journey into Electronic Space' (New York: Oxford University Press, 1997).
- Vigna P., M. J. Casey, *Cryptocurrency: How Bitcoin and Digital Money are Challenging the Global Economic Order* (London: Bodley Head, 2015).
- Vriesekoop F. et al., F 'Dirty Money: An Investigation into the Hygiene Status of Some of the World's Currencies as Obtained from Food Outlets' (2010) 7(12) *Foodborne Pathogens and Disease* 1497-1502.
- World Health Organization, 'Coronavirus disease (COVID-19) Dashboard', available at: <https://covid19.who.int/table> (last accessed 3 September 2020).
- Yeung J., 'China is Disinfecting and Destroying Cash to Contain the Coronavirus' *CNN Business* (17 February 2020), available at: <https://edition.cnn.com/2020/02/17/asia/china-is-disinfecting-cash-coronavirus-intl-hnk-scli/index.html> (last accessed 29 March 2020).

Evolution of e-Governance in the Era of the Pandemic. Will the Crisis Become an Opportunity? The Cases of Cyprus and Greece

ROSSIDIS IOANNIS¹, BELIAS DIMITRIOS²

Abstract

The use of e-governance systems is crucial for the efficiency and effectiveness of public administrations. Despite significant steps in the integration of information technology in the previous years, Cyprus and Greece are still far from the European average. The COVID-19 pandemic forced State authorities to adopt emergency measures, aiming, among other things, to prevent the social gatherings of citizens. In this context, bold administrative reforms previously opposed during the design and implementation phase are now being attempted. Greece has progressed significantly during the pandemic, potentially setting an example for Cyprus despite the problematic integration of e-governance technologies. The purpose of this article is to present and analyse the reform efforts carried out in Greece and Cyprus during the pandemic, proceed to a comparative analysis and highlight useful conclusions for knowledge exchange between Greece and Cyprus. The present study discusses the prospect of transforming the pandemic crisis into an opportunity for administrative upgrading.

Keywords: e-governance, public administration, pandemic crisis

Introduction

The ever-changing socio-economic conditions combined with the strong impact of globalisation have made it necessary to move to a more efficient and effective type of public administration to be able to meet the high demands of citizens and businesses. Public administration, under the influence of modern management models such as New Public Management (NPM) and Public Governance, acquires a more operational approach by setting the fulfilment of high administrative performance as a key goal. E-governance has been a crucial tool for the development of public

¹ Adjunct Lecturer, School of Law, University of Nicosia.

² Assistant Professor, Department of Business Administration, University of Thessaly.

administration.³ The contribution of e-governance has led to the significant improvement of the operation of public services, which enjoys multifaceted benefits.⁴

In this context, the administrations of public bodies at the international level have focused on digital reforms by introducing information technologies in the public sector and achieving a significantly higher performance than in previous years. The implementation of e-governance has also been a key goal for the European Union (EU), pushing Member States to make the most of digital systems with a view to administrative convergence that would bring the prospect of European integration closer.

Being at the bottom of the European rankings, Cyprus and Greece are still far from the European average, although they have shown significant steps in the integration of information technologies in recent years. Successful examples of European countries (e.g. Nordic countries) could be regarded, under certain conditions, as promising practices enabling the transfer of significant know-how to Greece and Cyprus. However, one should bear in mind that peculiarities of administrative systems (structure, infrastructure, culture, technological level, etc.) are responsible, to a large extent, for rendering efforts of simply copying technological or administrative tools effective.

The era of the pandemic presents us with a field of special administrative analysis for the process of integration of information technologies. The arrival of COVID-19 forced State authorities to take emergency measures to deal with the transmission of the virus, aiming, among other things, at the prevention of the social gatherings of citizens. In this context, bold administrative reforms which have faced significant obstacles during the design and implementation phase so far, were nevertheless attempted. A notable case is the case of Greece, which, despite the problematic integration of e-governance technologies so far, made leaps and bounds during the pandemic crisis. In recent months, there has been an intensive implementation of information technologies in the Greek public sector, constituting an example for other countries such as Cyprus. This article will present and analyse the digital reform projects carried out in Greece and Cyprus during the pandemic. Through a comparative analysis, useful conclusions for the exchange of know-how between

³ Organisation for Economic Co-operation and Development (OECD), *Digital Government Strategies for Transforming Public Services in Welfare Areas* (2016), available at <https://www.oecd.org/gov/digital-government/Digital-Government-Strategies-Welfare-Service.pdf> (last accessed 11 July 2021).

⁴ Yu-Che Chen, *Managing Digital Governance: Issues, Challenges, and Solutions* (New York: Routledge, 2017).

Greece and Cyprus will be highlighted. The study examines the prospect of transforming the problems arising from the pandemic crisis into an opportunity for administrative upgrading.

Overcoming the Vemberian Model

The concept of bureaucracy was first introduced by Max Weber and refers to the most common form of organisation ‘characterized by centralism, hierarchy, power, discipline, rules, career, employment, tenure’.⁵ For many years, the Vemberian model has been associated with public administration, constituting an administrative phenomenon of historical but ambiguous significance. The economic, administrative, and socio-political changes of the last decades have led to the revision of the function of public bureaucracy with a focus on increasing the efficiency of the public sector and its overall ability to respond to its emerging role.⁶

The need for administrative reforms has now been established in Greece and Cyprus. Public management, NPM, and public governance are increasingly being used, expressing itself more as an institutional development rather than an abstract or theoretical development. There is a gradual transition from public administration to public management. A series of increasingly noticeable pathogens has led to the creation of the new model of public sector administration. In particular, the existence of an outdated, bureaucratic, and inefficient type of public administration combined with the technological boom and globalisation of the economy, as well as the growing demands of consumers/citizens for better services, led to the consolidation of more managerial approaches.⁷ Modern management trends, in fact, anticipate a flexible management process based on the effective management of material and intangible resources, which aims to achieve predetermined goals while being more in line with the day-to-day operation of organisations without excluding the willingness to define and implement a long-term strategy.⁸ The new management approach has consolidated a differentiated way for the operation of the public sector, which places emphasis on achieving a high level of efficiency. In this regard, the top priority has been the utilisation of modern information technologies which can

⁵ Ewan Ferlie, Laurence E. Lynn Jr., Christopher Pollitt, *The Oxford Handbook of Public Management* (New York: Oxford University Press, 2011) 33-76.

⁶ Sandford Borins, ‘The New Public Management is Here to Stay’ (1995) 38(1) *Canadian Public Administration*.

⁷ Ibid.

⁸ Ferlie, Lynn Jr., Pollitt (no 4).

contribute to the fulfilment of the goals for increased efficiency.⁹ The emergence of e-governance is the modern reality of public administrations.¹⁰

Concept and Characteristics of E-Governance

The perpetual integration of Information and Communications Technology (ICT) in every aspect of daily life has marked a new political and socio-economic reality, called the 'Information Society'.¹¹ However, e-governance is not limited to the integration of ICT in public administration to automate processes, but rather supports the entire life cycle of public policies, from identifying social needs and planning solutions to implementing and evaluating results. E-governance refers to the use of information and telecommunications technologies in public administration in combination with organisational changes and new staff skills that seek to improve public service, strengthen democracy, and support public policies.¹² The main goals of e-governance are the modernisation of the State and the creation of a new form of 'e-governance', the development of a 'networked' civil society, the provision of comprehensive e-services, and also the strengthening of democratic processes by forming a digital participatory democracy.¹³

Thus, e-governance looks forward to the democratisation of institutions, promoting the principles of equality and meritocracy within a vehicle of free information, equal access, and active participation of citizens in shaping public policies.¹⁴ Meanwhile, it advocates the values of economy, efficiency, and effectiveness of public actions.¹⁵ In addition, the values of the implementation of procedures and im-

⁹ Chen (no 3).

¹⁰ OECD (no 2).

¹¹ Ioannis Apostolakis, 'Critical Issues in the Path to e-Governance and Governance: State Interventions and Civil Society' (2005), available at: http://www.pspa.uoa.gr/fileadmin/pspa.uoa.gr/uploads/Research/EDE/Conferences/SDE_2005/Proposals/Apostolakis_Ioannis.pdf (in Greek) (last accessed 11 July 2021)

¹² Ioannis Apostolakis, Euripides Loukis, Ioannis Halaris, *Electronic Public Administration: Organisation, Technology and Applications (Ηλεκτρονική Δημόσια Διοίκηση: Οργάνωση, Τεχνολογία και Εφαρμογές)* (Athens: Papazisis, 2008) 59 (in Greek).

¹³ OECD (no 2) 12.

¹⁴ Stella Ladi, 'Citizens' Participation in Public Policy: From Theory to Practice (Συμμετοχή των Πολιτών στη Δημόσια Πολιτική: Από τη Θεωρία στην Πράξη)' (2010) 24 *Science and Society*, 79-98, available at <https://ejournals.epublishing.ekt.gr/index.php/sas/article/viewFile/904/927.pdf> (last accessed 11 July 2021) (in Greek).

¹⁵ Maria Rammata, *Contemporary Greek Public Administration: Between Bureaucracy and Management (Σύγχρονη Ελληνική Δημόσια Διοίκηση: Ανάμεσα στη Γραφειοκρατία και το Μάνατζμεντ)* (Athens: Kritiki publications, 2011) 41 (in Greek).

partiality are promoted.¹⁶ Moreover, the principle of legality, which refers to public administration actions governed by the principles and rules of law,¹⁷ is extended to include the values of transparency, control, accountability and public debate.¹⁸ It is now clear that e-governance is an essential tool embracing the dimension of support towards internal operations and the communication of public administration with its external environment, the dimension of e-services and commerce for businesses and citizens, as well as the burdensome dimension of e-democracy.¹⁹

The implementation of e-governance requires significant and sometimes radical reform of the organisational structures and procedures of public organisations,²⁰ during which some basic principles must be taken into account, as those are reflected in the ‘EU action plan on e-governance 2016-2020’:²¹

1. the ‘by definition digital character’ principle, which recognizes the need to establish the services provided primarily through digital means;
2. the ‘only once principle’, which ensures that the same information is submitted to the public administration by citizens and businesses only once (avoidance of digital bureaucracy);
3. the ‘blocking and accessibility’ principle to avoid digital divide;
4. the ‘open character and transparency’ principle with the ability to monitor and control public actions by civil society;
5. the definite cross-border character’ principle for the smooth development of European Public Administration and the single market;
6. the ‘by definition interoperable’ principle for the continuous exchange of information, data and services and;
7. the ‘reliability and security’ principle, which includes all necessary measures for digital data security and privacy protection.

¹⁶ Nikolaos Barbas, *Elements of Fiscal Law (Στοιχεία Δημοσιονομικού Δικαίου)* (Athens-Thessaloniki: Sakkoula, 2018) 97 (in Greek).

¹⁷ Epaminondas Spiliotopoulos, *Handbook of Administrative Law (Εγχειρίδιο Διοικητικού Δικαίου)* (15th edn, Athens: Law Library, 2017) 76 (in Greek).

¹⁸ Panagiotis Karkatsoulis, ‘Governance as a Content and Decision-Making Process for Public Affairs’ (‘Η Διακυβέρνηση ως Περιεχόμενο και Διαδικασία Λήψης Απόφασης για τις Δημόσιες Υποθέσεις’) (2001) 7 *Science and Society*, 208-209, available at https://www.researchgate.net/publication/283780816_E_diakybernese_os_periechomeno_kai_diadikasia_lepses_apophases_gia_tis_demosies_ypotheseis (last accessed 11 July 2021) (in Greek).

¹⁹ Apostolakis, Loukis, Halaris (no 11) 28.

²⁰ *Ibid.* 27.

²¹ EU action plan on e-governance 2016-2020, available at <https://ec.europa.eu/digital-single-market/en/european-egovernment-action-plan-2016-2020> (last accessed 11 July 2021).

Utilising the potential of e-governance in public administration is a time-consuming, laborious, and dynamic process, which is constantly evolving and requires the fulfilment of many conditions. The provision of public electronic services is graded according to their level of digital integration, which is also the quality of their evaluation scale. Levels of digital integration of the public sector can be summarized in simple information (e.g. information sites), interaction (e.g. providing standard forms), two-way interaction (e.g. electronic request forms), electronic transaction (e.g. online processing of requests) and the personalised service, which refers to the automated and preventive provision of services (proactive service delivery).²²

The multidimensional and interdependent benefits that result from the integration of e-governance in public administration refer both to the administration itself, citizens, and businesses, as well as to society and public life in general.²³ The most important benefits include the seamless dissemination of organised, easily accessible and user-friendly unified quality government information.²⁴ The use of ICT and the computerisation of administrative procedures and functions bring flexibility, reduce the cost of processing work, speed up procedures, reduce bureaucracy, save resources, offer more complete control, and eliminate the obligation to provide a large number of legal and other documents.²⁵ At the same time, the interconnection of information systems and the interoperability between public bodies enhance the efficiency of public bodies, which results in the direct increase of the trust and satisfaction of businesses and citizens, who can now carry out a large number of transactions on a 24-hour basis and without geographical restrictions.²⁶

²² Michael Paraskevas, Georgios Asimakopoulos, Vasilios Triantafyllou, *Information Society: Infrastructure, Services, and Impacts (Κοινωνία της Πληροφορίας: Υποδομές, Υπηρεσίες και Επιπτώσεις)* (Athens: SEAB, 2015) 1-2 (in Greek).

²³ Chen (No 3).

²⁴ Athanasios Vassilopoulos, 'E-Governance in Greece' ('Η Ηλεκτρονική Διακυβέρνηση στην Ελλάδα') (2016), available at https://www.academia.edu/30423917/E_Governance_in_Greece_%CE%97%CE%BB%CE%B5%CE%BA%CF%84%CF%81%CE%BF%CE%BD%CE%B9%CE%BA%CE%AE_%CE%94%CE%B9%CE%B1%CE%BA%CF%85%CE%B2%CE%AD%CF%81%CE%BD%CE%B7%CF%83%CE%B7_%CF%83%CF%84%CE%B7%CE%BD_%CE%95%CE%BB%CE%B-B%CE%AC%CE%B4%CE%B1_Athanasios_Vasilopoulos_Gr_ (last accessed 11 July 2021) (in Greek).

²⁵ Diomidis Spinellis et al., 'E-Governance in Greece: Successes, Problems and the Road to Digital Transformation' ('Ηλεκτρονική Διακυβέρνηση στην Ελλάδα: Επιτυχίες, Προβλήματα και ο Δρόμος προς τον Ψηφιακό Μετασχηματισμό') (Athens: DIANEosis Research and Analysis Organization, 2018) 79, available at https://www.dianeosis.org/wp-content/uploads/2018/03/EGov_Upd_090318.pdf (last accessed 11 July 2021) (in Greek).

²⁶ Apostolakis, Loukis, Halaris (no 11) 53-57.

A key advantage of e-governance is the strengthening of cooperation at a national and supranational level, leading to enhanced competitiveness, innovation and entrepreneurship, and promoting sustainable development and better utilisation of national resources. Equal access of citizens to information flows and increased opportunities for audits promote transparency, accountability, extroversion, and overt action of the administration, leading to the elimination of corruption and mismanagement.²⁷ Encouraging the participation and involvement of citizens in the formulation of public policies using ICT and the internet²⁸ (e.g. electronic consultations, voting) is an investment in the democratisation of institutions and the defence of the public interest, and also contributes to the development of a politico-central and more democratic government.²⁹

However, the benefits from the integration of e-governance in public administration are poorly assessed without a corresponding drastic redesign of organisational structures and procedures.³⁰ The difficulties of e-governance also include issues of compatibility, accessibility, usability, feedback, interoperability, and technological level mismatch between the stakeholders, as well as issues of security, legality, trust, and personal data protection.³¹ According to Gupta et al. (2019), the most common barriers are the following:³²

1. lack of inter- and intra-organizational collaboration,
2. lack of feedback-based learning loops,
3. lack of citizen engagement,
4. lack of top management commitment,
5. lack of political will,
6. resistance to change,
7. lack of trust on e-governance,
8. lack of clarity about roles and responsibilities,

²⁷ Vassilopoulos (no 22).

²⁸ Vasos Georgiou, *Public Administration in Cyprus: Administrative Law, Jurisprudence, and Introduction to Management Science (Η Δημόσια Διοίκηση στην Κύπρο: Διοικητικό Δίκαιο, Νομολογία και Εισαγωγή στη Διοικητική Επιστήμη)* (Nicosia: En Typois, 2012) 148 (in Greek).

²⁹ Ladi (no 13) 83-84.

³⁰ OECD (no 2).

³¹ Apostolakis (no 10) 50.

³² Anchal Gupta, Pradeep Kumar Suri, Rajesh Kumar Singh, 'Analyzing the Interaction of Barriers in E-Governance Implementation for Effective Service Quality: Interpretive Structural Modeling Approach' (2019) 7(1) *Business Perspectives and Research* 59–75, available at <https://journals.sagepub.com/doi/pdf/10.1177/2278533718800562> (last accessed 11 July 2021).

9. inadequate planning for project sustainability,
10. unrealistic time frames for implementation,
11. rigid process in government system,
12. inadequate infrastructure,
13. ignorance of stakeholders' concerns,
14. insufficient requirement analysis.

A critical turning point is the lack of specialisation and training of the human resources in public administration, where the culture of the latter regards the predisposition to resist impending changes, while the issue that needs to be addressed is the so-called 'digital divide', which expresses the digital divide and differentiated familiarity of citizens vis-à-vis technology.³³ Finally, there is difficulty in integrating e-governance into the legal framework, while the commitment and targeting of the current political and administrative leadership, as well as the provision of the necessary funding for the creation of strong information systems, are additional issues to be explored and resolved.³⁴

E-Governance in Greece

E-governance has been a particularly important target of the Greek public administration, which has been trying - through the introduction of information technologies— to upgrade the operation of the public sector by significantly improving the levels of efficiency and effectiveness. The coordinated institutional efforts to introduce e-governance in Greece have been carried out through a series of action programs over the last 30 years.

The first action plan for e-governance was the 'Kleisthenis' program, within the framework of the second Community Support Framework (CSF). According to this program, new technologies were introduced in the services of the municipalities as well as in other services. Between 1994 and 1999, public services were provided with computers, software, and network infrastructure. In 1998, the 'quality for the citizen' program was adopted, incorporating four areas of action: a) structures, b) operation, c) human resources and d) new technologies. In 1999, the Ministry of Finance established its operational program, 'Information Society', which strengthened the infrastructure and ICT services in the main sectors of public administration, health, and education, as well as the general total of the IA's transactions with

³³ Vassilopoulos (no 23) 10.

³⁴ Apostolakis, Loukis, Halaris (no 11) 35-36.

citizens and businesses. In 2000, the State program was implemented, offering the directions for the necessary reforms in public administration with the inherent primary goal of serving the citizen. The programs implemented within the framework of the 2nd CSF are the following:

1. 'Kleisthenis', 1994-1999: with emphasis, as already mentioned, on the network infrastructure but also on the education and training of civil servants;
2. "Politeia": with emphasis on the directions of continuous reform in public administration. The program is supplemented and completed with various operational programs;
3. 'Syzefxis': the development of a single internal network infrastructure that enables the communication of public services with citizens and businesses, as well as with each other;
4. 'Ariandi': this program includes actions related to
 - a) a system that gives access to information of public administration through call centres;
 - b) the interconnection of local authorities;
 - c) the implementation of a system for receiving and processing requests, positions and opinions of citizens to enhance their participation in the public sphere;
 - d) the development of a portal for citizens;
 - e) the reorganisation of licensing and certification procedures.

In addition to the above programs, individual actions are carried out by various organisations to primarily meet their daily needs:

1. the development of information system of taxation and customs by the Ministry of Finance,
2. a system for the modernisation of the Greek Police by the Ministry of Public Order information,
3. the upgrade of the justice system and detention systems by the Ministry of Justice,
4. the development of a high-precision numerical model for the weather forecast, by the Ministry of National Defence
5. the modernisation of the former Social Insurance Institute through the development of an information system in information and transaction services.

In addition, programs were also funded with the aim of upgrading the local government with the following main actions:

- a) electronic voting on local issues,
- b) actions for the protection of the environment,
- c) online discussions on local issues,
- d) local portals with electronic services for the issuance of certificates, licenses, and certificates,
- e) electronic services for transport management.

Equally important actions were implemented within the framework of the 3rd CSF, such as:

- a) the strengthening of e-governance programs,
- b) support for the management of Structural Fund resources and the changeover to the euro currency,
- c) regional geographic information systems and innovative actions,
- d) training of human resources and modernisation of the administration,
- e) information and communication technology in the fields of Health and Welfare,
- f) smart and intelligent transport,
- g) data infrastructure and information technology for the land registry.

In recent years, the actions of ICT and e-governance in Greece were funded by the programs of the European Structural Funds and implemented through the 3rd CSF (2000-2006) and the National Strategic Reference Framework (2007-2013). Until 2013, the implementation of information technologies in the Greek public administration had been very limited. Public administration includes features of complexity, low efficiency, limited technological infrastructures, shortcomings in computerisation and a small percentage for ICT.

Despite the recognition of e-governance as a high-priority goal for the Greek public administration, the results were not as anticipated. The Greek e-governance presents fragmentary and incomplete implementation of digital systems, technological level mismatch between public bodies, poor interoperability, and dysfunction in the implementation of planned strategic actions.³⁵ In fact, the National Digital Strategy 2006-2013 identifies as roots of the above problems and distortions the following:³⁶

³⁵ Ibid. 428.

³⁶ Ibid. 385-386.

1. non-dynamic utilisation of ICT by the Greek State,
2. small impact of existing ICT on business productivity,
3. lack of strategy,
4. small number of available e-governance services,
5. low priority for ICT by Greek governments,
6. limited information on the benefits of e-governance projects,
7. inadequate ICT education in schools and limited lifelong learning,
8. absence of practical reasons for the use of the internet by the citizens,
9. high prices for broadband access,
10. lack of interoperability between public bodies and their electronic services,
11. introversion of public organisations in the integration of new technologies,
12. inability to develop e-services in areas critical to the quality of life of citizens (e.g. health).

Despite the realisation of the imperative necessity to adopt e-governance mechanisms, the integration of successful electronic applications is assessed as meagre, with few exceptions such as the Hellenic Online Tax System (TAXIS) of the General Secretariat of Information Systems (GIS), the Service Centres and the Citizens' Service Centres (DIAVGEIA).

During the period 2014-2020, the Greek public administration placed greater emphasis on the integration of e-governance elements. Through the introduction of more information technologies perceiving them as tools of contemporary governance, public administration aimed to improve its administrative performance. Nevertheless, the Greek public sector was called upon to face several complex challenges. To address them effectively, it chose to focus on six key pillars of administrative reform that will be the cornerstone for its future:

1. creation of a uniform and coordinated public sector,
2. focus of public administration on the needs of citizens and businesses, the provision of efficient services, the modernisation of structures and the simplification of procedures,
3. empowerment of human resources,
4. empowerment of senior executives to achieve higher performance,
5. further development of the existing culture to achieve better results,
6. design of flexible processes and capabilities to drive future reforms with long-term benefits.

In the strategy of the period 2014-2020, we can distinguish three main directions:

1. The first concerns the modernisation of the State and the administration mainly through the simplification of the procedures and the electronic management of documents, as well as the unified management of the resources available to public administration.
2. The second concerns the reconnection of the public sector with the citizen, mainly by creating a single point of access to public services and the unified management of State-citizen-business relations.
3. The third concerns the coordination of ICT policies in the public sector by linking its basic registers with open public information.

Greece has shown significant progress in integrating e-governance systems into the operation of the public sector.³⁷ Nevertheless, the reform project presents several difficulties and is evolving at a very slow pace.³⁸ Difficulties include a lack of long-term vision, gaps between digital strategy and action plan, a lack of a strategic implementation plan, a lack of continuity of government declarations and programs,³⁹ a lack of results, increased bureaucracy, a vast legislative framework, the financing of projects without proper maintenance, the discontinuity and fragmentation of applications, the existing culture of human resources and its inadequate training, as well as the absence of a central government.⁴⁰

E-Governance in Cyprus

By responding to the demands of contemporary administration as well as to European requirements, Cyprus has in recent years adopted a wide range of digital reforms aiming at introducing e-governance systems in the Cypriot public administration. A key area of reform is the 2014-2020 strategy, which presents as its main goal the provision of as many public services as possible in electronic form to serve citizens

³⁷ Panagiotis G. Maistros, *The Three Waves of Public Administration Reforms in Greece [1975-2015 +]* (*Τα Τρία Κύματα Μεταρρυθμίσεων της Δημόσιας Διοίκησης στην Ελλάδα [1975-2015+]*) (Athens: Papazisis, 2009) (in Greek).

³⁸ Spinellis et al. (no 24) 125.

³⁹ Thodoris Tsekos, 'European Rhythms and Greek Ways: The (Uncertain) Greek Course Towards the (Unclear) European Administrative Space (Ευρωπαϊκοί Ρυθμοί και Ελληνικοί Τρόποι: Η (Αβέβαιη) Ελληνική Πορεία προς τον (Ασαφή) Ευρωπαϊκό Διοικητικό Χώρο)' in Argyris Passas, Thodoris Tsekos (eds) *National Administration and European Integration: The Greek Experience* (Athens: Papazisi, 2008) 135 (in Greek).

⁴⁰ Spinellis (no 24) 105-116.

and businesses digitally in all aspects of their cooperation with the public sector. Particular emphasis has been placed on services, work, health, and education.

The digital strategy 2014-2020 is an action plan that aims at the effective use of ICT in all sectors of the economy and society. According to the text of the digital strategy, which has been posted on the website of the State Department of Electronic Communications, 'in a country where most of the economy is based on services, the digital strategy will help to improve and upgrade these services'. Cyprus, which aims to be a regional centre in the provision of services in sectors such as health, education, and tourism, and which wishes to attract investment in these sectors, can improve and upgrade the services offered through the use of ICT.

In the context of realising the vision for the creation of a digital society, an important part of the digital strategy is covered by the goal of creating an integrated – and non-fragmented– digital public service where all public services are available in electronic form. Essentially, the creation of e-governance is a measure to achieve the overall goal of the digital strategy of Cyprus related to the modernisation of public administration. The implementation of e-governance contributes to the realisation of the broader goal of the restructuring of the public service, so that public services 'are simple, understandable and attractive to citizens, that is to focus on the citizen, moving away from one-size-fits-all and moving towards more personalized solutions, while allowing interactivity and transaction between Government Services and citizens / businesses'. The publication of the digital strategy of Cyprus also points out that 'the provision of public electronic services must simplify the procedures and create a favourable climate for the promotion of investments in various sectors of the economy while the design and implementation of public services must take into account vulnerable groups'⁴¹.

The main objectives of the digital strategy 2014-2020 include the following:

1. increasing Internet speed at affordable prices and satisfactory quality;
2. modernising the public sector and increasing the available public electronic services;
3. strengthening digital entrepreneurship;
4. promoting of digital skills.

⁴¹ European Commission, Digital Economy and Society Index - Cyprus (2020), available at https://ec.europa.eu/cyprus/sites/default/files/13_desi_2020_-_cyprus_-_el.pdf (last accessed 11 July 2021).

The application of the Tax Department electronic service, TaxisNet, is an extremely important e-governance program, which offers the possibility of electronic submission of tax returns of both VAT, and Income Tax.⁴² The implementation of the TaxisNet service contributed, on the one hand, to the significant improvement of the inefficiency of the tax administration and, on the other, to the better service of the citizens.

A particularly important reform project is the Government Gateway Portal (Ariadni). Ariadni, which is part of the infrastructure projects for the implementation of e-governance, is the central gateway to government IT systems and provides secure access to information for integrated cross-border purposes, requiring data from one and/or more systems.⁴³ Ariadni is essentially an infrastructure on which the electronic services made available by the government of Cyprus are built; an online platform that allows users to access public services offered online by visiting a single web portal.

An important e-governance system is the Government Data Warehouse which was completed in 2015. It is a database in which data from various government information systems are stored 'depending on the business questions that arise'.⁴⁴ In this way, the competent bodies can analyse, evaluate and utilise this data and come to strategic decisions regarding the improvement of the quality of the provided public services.

Overall, the Cypriot public administration has been significantly upgraded in recent years thanks to the addition of many and very important e-governance projects, such as the e-Justice Project, the implementation of an Integrated Health Information System, the Electronic Office Information Office (e-OASIS) project, the Laboratory Information Management System (LIMS) Project of the State Chemistry, the Platform for the enterprises of the Ministry of Energy, Trade, Industry and Tourism, which concerns the upgrading of the Unified Service Centre, etc.

⁴² Tax Department, TAXISnet Service, available at: <https://taxisnet.mof.gov.cy/login.jsp> (last accessed 11 July 2021).

⁴³ Ariadni, available at <https://eservices.cyprus.gov.cy/EL/Pages/Home.aspx> (last accessed 11 July 2021).

⁴⁴ Government Data Warehouse (GDW), available at <https://joinup.ec.europa.eu/collection/cyprus-government-initiatives/solution/government-data-warehouse/about> (last accessed 11 July 2021).

As part of the growing effort to integrate e-governance systems, the Ministry of Research, Innovation and Digital Policy has announced that it plans to implement the following e-governance programs and actions in the period 2020-2025:⁴⁵

1. the Enterprise Resource Planning System (ERP),
2. the evolution of e-OASIS Office Automation System,
3. the Central Antivirus System,
4. the Government Consolidated Network (KED),
5. the expansion of the Government Information Warehouse,
6. the creation of a Data Centre,
7. Priority Series Information System for the Citizens Service Centre (CSC),
8. a new information system for the Customs Department,
9. a new Integrated Information System of the Road Transport Department,
10. the LIMS program for the State Chemist,
11. e-Patient Folders,
12. the full digitisation for the Companies Registrar and Official Receiver Department,
13. a new Information System for the Department of Taxation,
14. the Land Information System of the Department of Lands and Surveys,
15. the Integrated Information System "Ippodamos" for the Department of Urban Planning and Housing,
16. an Integrated Fisheries Management System for the Department of Fisheries and Marine Research,
17. an Exchange Point Automation System for the Postal Services Department,
18. a new National Visa Information System for the Ministry of Foreign Affairs (MFA)
19. a Support Services System for the Ministry of Education, Culture, Sports and Youth,
20. an Electronic Justice system,
21. an Integrated Health Information System.

Nevertheless, as in the case of Greece, despite the significant steps to develop e-governance, the Cypriot public administration is still lagging behind European

⁴⁵ Deputy Ministry of Research, Innovation and Digital Policy, available at <https://www.dmid.gov.cy> (last accessed 11 July 2021).

requirements, which leaves significant room for improvement. Some of these could be identified as follows:

1. the extension of e-OASIS to all Departments/Services of the public sector;
2. online processing of all payments to the government (e-payment);
3. incentives for citizens to use the available electronic services of the public sector;
4. the identification of basic services that cannot be offered completely electronically due to the existing legislation, and the amendment of these laws so that these public services can also be provided electronically;
5. the development of more electronic services based on the needs of citizens/businesses;
6. ensuring social inclusion so that services can be accessed and used by all categories of users, including vulnerable groups;
7. enabling citizens' access to their personal data, which they need in transactions with government agencies, and ensuring that the submission of such information by the citizen will take place only once.
8. the public (Internet) provision of information (laws, regulations, financial data, etc.) which is in the possession of the State.
9. the development of tools that support participatory decisions and enable the participation of the citizen in the decision-making of the State.
10. the review of public-sector procedures for effective e-governance.

E-Governance in Cyprus and Greece in comparison to the EU

Although Greece and Cyprus have shown significant progress in the integration of e-governance systems in recent years, they are still quite far from the European average, as they are at the bottom of the European ranking according to the Digital Economy and Society Index (DESI), where Greece ranked 27th and Cyprus ranked 24th under 'Integration of Digital Public Services' among the 28 EU Member States. In other words, they have a long way to go to meet European requirements and the current needs of citizens and businesses. The DESI is a complex index resulting from the synthesis of five sub-indices:⁴⁶

1. connectivity: availability of broadband networks, internet connection prices,

⁴⁶ European Commission, 'The Digital Economy and Society Index (DESI)', available at <https://ec.europa.eu/digital-single-market/en/desi> (last accessed 11 July 2021).

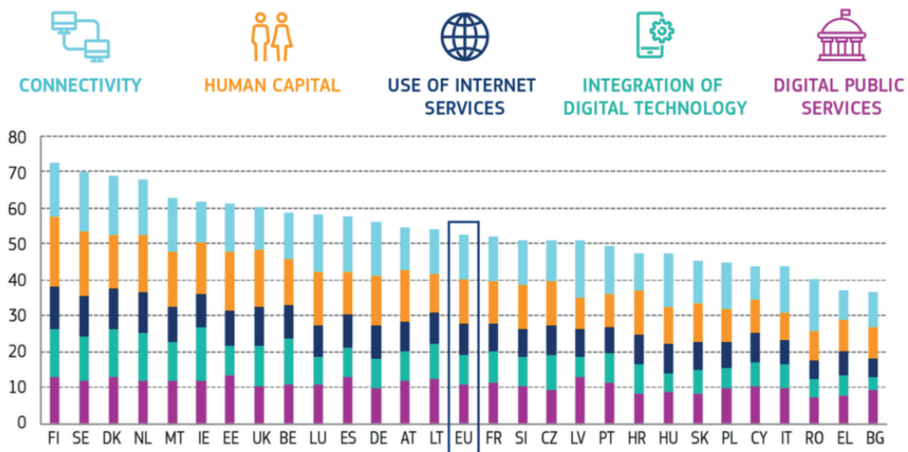
2. human capital: digital skills of citizens and the workforce,
3. Internet use: use of electronic services by citizens,
4. digital technology integration: business integration of new technologies, e-commerce development,
5. integration of digital public services: integration of new technologies by the public sector, development of e-governance.

The following figures show the position of Greece and Cyprus in relation to the European ranking based on the DESI.

Figure 1: DESI Ranking of Greece and Cyprus⁴⁷



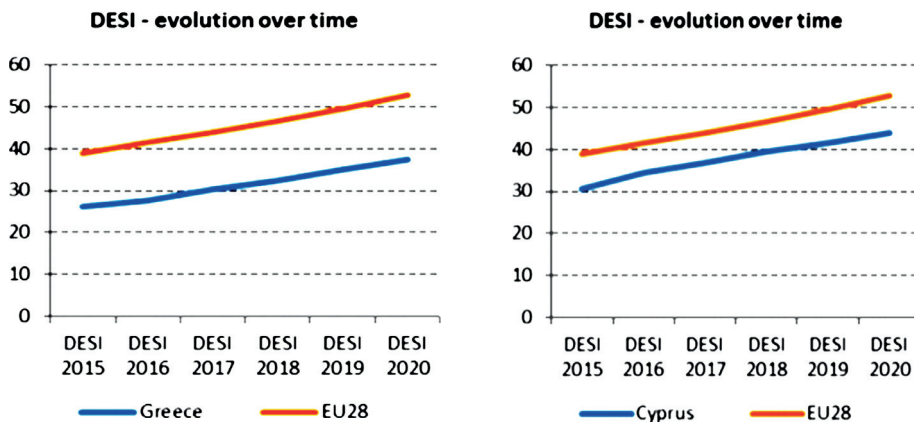
Figure 2: European Ranking of the DESI⁴⁸ (2020)



⁴⁷ Ibid.

⁴⁸ Ibid.

Figure 3: DESI evolution of Greece and Cyprus over time ⁴⁹



The ranking of Europe in the DESI 2020 makes it clear that both Greece and Cyprus should intensify their efforts to approach the European average by substantially upgrading the level of their electronic public services. At this point, of course, the effort made in recent years to significantly improve the level of digital services compared to the past must be emphasized. Prima facie, the course of Greece and Cyprus from 2015 to 2020, highlights the progress made and forms an optimistic assessment of their future development.

Nevertheless, carrying out a more thorough analysis of each element of the DESI indices for Greece and Cyprus, some common features are identified, causing concern. Particularly:

- Low digital skills of human resources are observed (a significant percentage of the population has never used the internet), lagging significantly behind in digital skills compared to the corresponding EU average.
- In terms of internet use, Greece and Cyprus fall far behind (although in individual activities, such as access to information, entertainment, social networks, games and the use of communication, performance is good) the EU MoD, particularly in the fields of electronic transactions and online transactions.
- Regarding the use of digital technology by companies, the percentage of sales of companies through e-commerce is small, electronic documents

⁴⁹ Ibid.

have limited use and few companies use modern technologies of production organisation.

- As for the digital services of the public sector, integrated services to citizens, businesses and other public services are far from ideal.

Greece and Cyprus in the Time of the Pandemic

From the beginning of 2020, the dangerous coronavirus spread to the EU and gradually to both Greece and Cyprus as well. SARS is a highly contagious virus. It spreads mainly through person-to-person contact, while the infections range from mild to deadly. The rapid spread of the virus has led to immediate adaptations in much of the socio-political life of each country. This situation has demonstrated the importance of digital resources for our economies and how networks and connectivity, data, artificial intelligence, and supercomputers, as well as basic and advanced digital skills, support our economies and societies, making it possible to continue work, monitor the spread of the virus and speed up research on drugs and vaccines⁵⁰

In this context, and to avoid public gatherings by observing quarantine conditions imposed by the extraordinary measures taken by the governments, special emphasis was placed on the adaptation of public administration to the new circumstances. These conditions - which highlight the imperative need for reform of the administrative function - have led to the intensification of the efforts to introduce e-governance systems in Greece and Cyprus, while overcoming obstacles that have hindered important areas of digital reform for years at the same time (e.g. citizens and employees' reactions, low level of government priority, lack of funding, etc.). Within a short period of time the Greek government reviewed and accelerated its plans to take appropriate action and offer the citizens a range of digital services.

E-Governance Reforms in Greece in the Era of COVID-19

During the pandemic, Greece undertook a large number of e-governance reforms, significantly improving the effectiveness of its actions by introducing key changes in e-governance systems. Due to the high degree of necessity, many digital projects, such as digital service platforms, have been implemented to achieve remote citizen service, while legislative and regulatory initiatives have been taken and appropriate

⁵⁰ European Commission, 'Cyprus in the Digital Economy and Society Index', available at <https://digital-strategy.ec.europa.eu/en/policies/desi-cyprus> (last accessed 11 July 2021).

guidelines have been provided to ensure digital processing. The Ministry of Digital Governance implemented and began the operation of the single portal of the State, namely gov.gr. Through the gov.gr portal, the citizen gained access to more than 500 digital services—including the electronic processing of authorisations—avoiding relocation and significantly reducing bureaucracy.

Legislative Act 4635/2019 regulated the process of citizen access to the single portal, allowed the issuance of certificates and included, inter alia, the following regulations regarding the necessary measures to deal with the pandemic:

1. issuance of documents through gov.gr; every natural person has now the ability to issue documents, which will be accepted by all public bodies as well as by other natural or legal persons, individually or on behalf of a third party (as a legal representative);
2. ways of authentication for the use of the services of gov.gr;
3. submission of electronic applications to the CSCs; every citizen can submit applications electronically to the CSCs through the portal ermis.gov.gr, as well as through e-kep.gov.gr;
4. access to electronic solemn declaration document and its authorisation;
5. legal validity of electronic signatures and seals: Issued electronic documents contain an approved electronic signature and no original signature or seal is required. According to announcements by the Ministry of Administrative Reform, more than 27,000 solemn declarations and 11,500 authorisations were processed through the single portal within the first ten days of its operation.

These reforms have made a significant contribution to the electronic circulation of documents, the electronic service of citizens and the general avoidance of congestion in public services, not only contributing directly to the fight against the coronavirus but also indirectly to the improvement of the functioning of the public administration.

A few days after the activation of gov.gr, and specifically on 28 March 2020, the citizens of Greece were given the opportunity to activate the service of non-paper electronic prescriptions, which also allows for the electronic prescription of medicines to chronically ill people. The general lockdown created the need for specialised instructions given by the General Secretariat for Civil Protection. For this reason, the Ministry of Digital Government created the website forma.gov.gr through

which it undertook the task to inform citizens in detail and offer instructions on containment measures. This process can significantly contribute to the development of electronic information of citizens through public service sites, creating a new perspective of cooperation and service from public services.

Additionally, the electronic portal of Social Insurance services (e-Efka) allows access to citizen registration documents registered with the Ministry of Interior within the information system 'Citizens' Register' enhancing the electronic operation of the organisation. The National Health System (ESY) was at the epicentre of the crisis as it had to deal with the coronavirus pandemic, while, at the same time, it was heavily criticised for mistakes and shortcomings of the past and expected to lay the foundations for the future. In a very short time, more than 4,000 recruitments of medical staff and a large supply of medical equipment were approved for the operation of 75 new beds in intensive care units.

The cooperation of the Ministries of Health, Interior, and Digital Government resulted in the inauguration of the COVID-19 patient register which was and still is a reference point for the confirmed cases of the virus. The register contains useful data in combating and dealing with the pandemic and is available 24 hours a day.

At the same time, the creation of the ethelontes.gov.gr platform aimed at strengthening both human resources and the supply of medical equipment, while it attracted about 11,000 volunteers, including doctors, psychologists, students, and retired health professionals, creating aspects of electronic participation.

In the context of digital solidarity, the GIS implemented the digitalsolidarity.gr platform, which provided services related to distance work, e-learning, information, entertainment, as well as the provision of free babysitters, teachers, and nurses to families with medical personnel working at the frontline, contributing to the gradual development of a culture of e-governance and digital services. At the same time, the same platform allowed small businesses to gain access to free internet-marketing training sessions to adapt to the rapidly growing e-markets.

During the enforcement of lockdown, public bodies held video conferences to continue their smooth operation. This was made possible thanks to the e:Presence.gov.gr platform launched on 16 March 2020, while the first video conference of the Cabinet of Greece was held a few days later; an innovation for the Greek public administration which promoted electronic distance communication as a means for enhanced operation of organisations.

Within a short time from the introduction of the measures against COVID-19, public services and organisations managed to provide safe access to their employees to work from home. It is estimated that approximately 10,000 civil servants worked safely from home via the Virtual Private Network (VPN) implemented for this purpose for operators affiliated to the Syzefxis Network, developing the prospects for the further expansion of telecommuting models, and increasingly approaching the vision for a modern e-government. Thus, the protection and safety of workers, vulnerable groups, and the public interest are ensured.

In addition, the necessary measure of school closures led to the transition to a distance-learning environment in order for students to continue their education based on the three axes of:

1. asynchronous education,
2. modern education,
3. educational TV.

From the e-governance projects discussed above, it becomes clear that, in the case of Greece, the pandemic worked in a particularly ‘beneficial’ way to the field of administration. The emerging need for action has led to the improvement of the performance of public administration by introducing important elements of digital reforms, which have been a topic of discussion for several years, awaiting the appropriate conditions to become implemented.

E-Governance in Greece and Cyprus during the pandemic

Similar reform efforts were carried out in the field of public administration of Cyprus, which proceeded with a significant number of e-governance reforms to deal with the unprecedented conditions brought about by the pandemic. The attention of the State administration turned on public services with the largest volume of citizen transactions. The urgent need to promote e-governance led to the immediate implementation of digital projects. These projects, however, have to a large extent raised concerns about their long-term effectiveness, as well as their overall functionality. These concerns derive mainly from the hurried adoption of digital projects without enough time for adequate design and implementation. At the same time, the health crisis revealed a series of gaps in essential services such as land registry, urban planning, the Registrar of Companies, education, and the Courts. Nevertheless, the use of e-governance projects was crucial in tackling the pandemic, and efforts for digital reforms have intensified.

The Deputy Ministry of Research, Innovation and Digital Policy played a special role in the implementation of digital reforms in the pandemic era. The pace of digital transformation, under the stifling pressure to provide practical solutions to support pandemic mitigation measures, is estimated to have given direction to several pilot operations after the pandemic. Important reform actions of the Ministry of Foreign Affairs consist of the following:

- a) the remote psychological care service launched on 30 March 2020 to assist COVID-19 patients and the general public, providing a purely digital service which could initiate a greater focus on online citizen information;
- b) the #DigitalSolidarityCY platform launched on 10 April 2020 aiming at providing digital services and applications to citizens and businesses, either for free or at a reduced cost, for as long as the restrictive measures to stop the spread of coronavirus spread would stay in place. It is major reform that follows the model of modern e-governance practices;
- c) the platform for the Emergency Management System for Handling confirmed COVID-19 cases COVID-19 introduced on 14 April 2020, which created a greater link between citizens and the electronic services of the Cypriot public administration.
- d) signing up to the electronic platform Ariadni was made possible on 13 July 2020.

Apart from the Ministry of Research, Innovation and Digital Policy, the trend towards the use of digital media permeates the entire realm of the Cypriot public administration through the implementation of multifaceted e-governance projects. As a matter of fact:

1. One of the digital projects completed under pressure was the electronic processing of allocation of bonuses procedures, partial or total suspension of work for employees and companies. It is a very important reform which, although it has received a lot of criticism (regarding individual shortcomings or problems), it is moving towards the improvement of e-governance levels in Cyprus.
2. In the context of digital reforms, significant electronic facilities have been set up for citizen transactions with Social Insurance Services contributing to the effort of developing an integrated digital social insurance system.

3. An important element of e-governance is the implementation of e-learning programs: the closure of educational institutions led to the creation of a hybrid system through which students, parents, and teachers can communicate and where teaching takes place. This is a series of reforms that can cultivate, in addition to education, a comprehensive e-collaboration.

From the above, it can be concluded that in the case of the Cypriot public administration there was a tendency to intensify the efforts to implement e-governance systems amidst the pandemic. This effort is considered positive, although - drawing on the example of Greece - Cyprus could further seize the 'opportunity' offered by the health crisis to achieve more drastic digital reforms (it should be noted that Greece is behind Cyprus in terms of e-governance, according to the DESI). This conclusion is based on the assumption that despite the fact that Cyprus ranks higher compared to Greece in most e-governance indicators, Greece intensified its efforts during the pandemic in an attempt to shield Greek society from the dangers of the coronavirus through administrative measures taken to avoid overcrowding. Thus, Greece reaped the added benefit of improving the administrative system through the development of e-governance projects (to a greater proportion than the corresponding effort of Cyprus). This observation is based on the recorded digital reforms that took place during the pandemic, given the current technological level of each country.

Discussion

On their way from bureaucratic administration to NPM and Public Governance, the Greek and Cypriot public sectors are called upon to increase their levels of efficiency and effectiveness in response to their emerging role. The introduction of e-governance is a contemporary requirement which is increasingly merged in the administrative function of all developed countries. Of course, the fact that this is a very demanding process which often finds significant obstacles rendering the introduction and sustenance of digital reforms difficult is a given. The difficulties of ICT integration are often categorised into the following broad areas: inadequate strategic planning; the particularities of structural features of public administration; the inadequate management of information systems; inefficient human-resources management, and the disoriented organisational culture.⁵¹ All of the above constitute problematic areas that are encountered in Greece and Cyprus to a large extent,

⁵¹ Spinellis et al. (no 24).

leading to poor performance in e-governance. We should not undervalue, on the other hand, the significant progress observed recently' even though Greece and Cyprus still fall behind European standards.

The various dimensions of the shortcomings already mentioned have hampered digital reform, resulting in e-governance projects being implemented at a much slower pace than in other EU Member States. However, an increased differentiation of the reform pace was observed during the pandemic crisis. The demands of adapting the administrative systems to the extreme health conditions led to the immediate implementation of projects which –as history has shown– would have otherwise been implemented at a much slower pace. The acceptance of the new rhythms by employees and citizens, the new strategic planning (now adapted for the pandemic), the change of the structural characteristics of public administration (including digital aspects, new working conditions, more e-government projects, etc.), the reorganisation of the management of information systems and the necessary reform of the management of human resources, as well as the much-needed change of an organisational culture which had remained rigid for several decades led to the development of a different business environment; one favouring reforms. Under these circumstances, the pandemic can be an excellent opportunity to integrate e-governance projects.

This extreme situation experienced by citizens and businesses in Greece and Cyprus led to the acceptance of any measure deemed necessary to tackle the health crisis, creating an unprecedented window of opportunity for the introduction of key reforms. In this context, Greece and Cyprus have achieved significant reforms in the field of e-government aiming to tackle COVID-19 (avoiding social gatherings, encouraging remote work, restricting travel, etc.). Through the previous analysis it becomes clear that Greece has been more efficient in relation to the reform efforts carried out, setting an example for Cyprus. The extent and scope of the digital reforms carried out during the pandemic indicate a significant commitment of the Greek government to implement a large number of digital reforms that have been under planning for years. This extensive effort to develop e-governance is evolving into a highly successful public policy that can set an example for other countries. Although Cyprus ranks higher than Greece in the most important e-governance indicators, it does not seem to have seized the 'opportunity' of the pandemic to the same extent as Greece. Of course, the comparison of reform practices between the two countries could be considered invalid as there are inherent differences between

the two countries in key areas. It is a fact that the English influences of the Cypriot public administration combined with the more advanced infrastructures and the differentiated civil service culture render any attempts for comparative analysis with Greece particularly difficult (which is more influenced by Franco-German systems). The recent reforms in Greece manifest that the integration of new e-governance elements is now a high strategic priority aiming to tackle the pandemic while contributing to the development of its technological infrastructure and hence “export” promising practices to Cyprus aiming at a similar course. In this context, the exchange of know-how could contribute to the further promotion of e-government in the Cypriot public administration by implementing additional digital reform projects.

Conclusion

In the contemporary administrative environment, it is obvious that e-governance is a new administrative reality which can make a decisive contribution to improving the efficiency and quality of public administrations.⁵² Even though Greece and Cyprus have prioritised the development and implementation of e-governance, while recognising it lies among the high-priority policies, they still lag behind the European average. The reaction of the State administrations in view of the unprecedented situation brought about by the arrival of COVID-19 is the introduction of a field of separate administrative analysis. In these circumstances, the opportunity was created to further develop the implementation plan of e-governance to assist citizens and businesses through digital media, avoiding social gatherings and, subsequently, the risk of the transmission of the virus. The need to promote e-governance systems has helped overcome difficulties of the recent past that have been hindering the comprehensive implementation of digital reforms.⁵³ In this spirit, the pandemic crisis is evolving into a unique opportunity to significantly develop e-governance in Greece and Cyprus by compensating for the lost ground in relation to European standards. In this venture, Greece seems to be taking advantage of this opportunity to a great extent, forming a framework of good practices, which can also prove use-

⁵² Georgios Aspridis, Ioannis Rossidis, Kalliopi Tsiknaki, ‘The Partnership of Change Management in the Effort to Enhance the Effectiveness of Administrative Reforms’ (‘Η σύμπραξη της Διοίκησης Αλλαγών στην Προσπάθεια Ενίσχυσης της Αποτελεσματικότητας των Διοικητικών Μεταρρυθμίσεων’) (4th Annual Scientific Conference of the Association of Greek Journalists 2017) 7-10 (in Greek).

⁵³ Ioannis Rossidis, Dimitrios Belias, Georgios Aspridis, *Change Management and Leadership (Διαχείριση Αλλαγών και Ηγεσία)* (Athens: Tziolas, 2020) (in Greek).

ful for the case of Cyprus. It is well-established by now that the special circumstances arising from the pandemic (e.g. high government priority, European funding, current health requirements, the need for acceptance of administrative changes by workers/citizens/companies) have led to an environment conducive to reform and can thus make a significant contribution to improving public administrations.

References

- Apostolakis I., E. Loukis, I. Halaris, *Electronic Public Administration: Organisation, Technology and Applications (Ηλεκτρονική Δημόσια Διοίκηση: Οργάνωση, Τεχνολογία και Εφαρμογές)* (Athens: Papazisis, 2008) (in Greek).
- Apostolakis I., *Critical Issues in the Path to e-Governance and Governance: State Interventions and Civil Society* (2005), available at: http://www.pspa.uoa.gr/fileadmin/pspa.uoa.gr/uploads/Research/EDE/Conferences/SDE_2005/Proposals/Apostolakis_Ioannis.pdf (in Greek) (last accessed 11 July 2021).
- Aspridis G., I. Rossidis, K. Tsiknaki, *The partnership of Change Management in the Effort to Enhance the Effectiveness of Administrative Reforms (Η σύμπραξη της Διοίκησης Αλλαγών στην Προσπάθεια Ενίσχυσης της Αποτελεσματικότητας των Διοικητικών Μεταρρυθμίσεων)* (4th Annual Scientific Conference of the Association of Greek Journalists, 2017) (in Greek).
- Baker D., *Strategic Change Management in Public Sector Organisations* (Oxford: Chandos Publishing, 2007).
- Barbas L., *Elements of Fiscal Law (Στοιχεία Δημοσιονομικού Δικαίου)* (Athens-Thessaloniki: Sakkoulas, 2018) (in Greek).
- Borins S., *The New Public Management is Here to Stay* (1995) 38(1) *Canadian Public Administration*.
- Bourandas D., *Management: Theoretical Background-Modern Practices (Μάνατζμεντ: Θεωρητικό Υπόβαθρο-Σύγχρονες Πρακτικές)* (Athens: Benou, 2015) (in Greek).
- Chen Y, *Managing Digital Governance: Issues, Challenges, and Solutions* (New York: Routledge, 2017).
- Chevallerau F., 'The Impact of e-Governance on Competitiveness, Growth and Jobs' (Belgium: European Communities, 2005), available at https://www.cis-co.com/c/dam/global/de_de/assets/pdfs/publicsector/egov_competitiveness_02_05.pdf (last accessed 11 July 2021).
- Hellenic Agency for Local Development and Local Government (E.E.T.A.A. S.A) *The Necessary Conditions for the Digital Convergence of the Local Authorities*

- and the Transition of T.A. in Local e-Governance (Οι Αναγκαίες Προϋποθέσεις για τη Ψηφιακή Σύγκλιση των Ο.Τ.Α. και τη Μετάβαση της Τ.Α. στην Τοπική Ηλεκτρονική Διακυβέρνηση) (Athens: Institute of Local Government, 2006) (in Greek).
- Ferlie E., L. E. Lynn Jr., C. Pollitt, *The Oxford Handbook of Public Management* (New York: Oxford University Press, 2011) 33-76.
- General Secretariat of Public Administration, *Public Services Communication Regulation (Κανονισμός Επικοινωνίας Δημοσίων Υπηρεσιών)* (Athens: National Printing Office, 2003) (in Greek).
- Georgiou V., *Public Administration in Cyprus: Administrative Law, Jurisprudence and Introduction to Management Science (Η Δημόσια Διοίκηση στην Κύπρο: Διοικητικό Δίκαιο, Νομολογία και Εισαγωγή στη Διοικητική Επιστήμη)* (Nicosia: En Typois, 2012) (in Greek).
- Gupta A., P. K. Suri, R. K. Singh, 'Analyzing the Interaction of Barriers in E-Governance Implementation for Effective Service Quality: Interpretive Structural Modeling Approach' (2019) 7(1) *Business Perspectives and Research* 59-75, available at <https://journals.sagepub.com/doi/pdf/10.1177/2278533718800562> (last accessed 11 July 2021).
- Karkatsoulis P., 'Governance as a Content and Decision-Making Process for Public Affairs' ('Η Διακυβέρνηση ως Περιεχόμενο και Διαδικασία Λήψης Απόφασης για τις Δημόσιες Υποθέσεις) (2001) 7 *Science and Society*, 205-224, available at <https://ejournals.epublishing.ekt.gr/index.php/hapscpbs/article/view/24954> (last accessed 11 July 2021) (in Greek).
- Ladi S., 'Citizens' Participation in Public Policy: from Theory to Practice' ('Συμμετοχή των Πολιτών στη Δημόσια Πολιτική: από τη Θεωρία στην Πράξη') (2010) 24 *Science and Society*, 79-98, available at <https://ejournals.epublishing.ekt.gr/index.php/sas/article/viewFile/904/927.pdf> (last accessed 11 July 2021) (in Greek).
- Maistros P. G., *The Three Waves of Public Administration Reforms in Greece [1975-2015 +] (Τα Τρία Κύματα Μεταρρυθμίσεων της Δημόσιας Διοίκησης στην Ελλάδα [1975-2015+])* (Athens: Papazisis, 2009) (in Greek).
- Makridimitris A., *Approaches to the Theory of Organisations (Προσεγγίσεις στη Θεωρία των Οργανώσεων)* (Athens: Kastaniotis, 2003) (in Greek).

- Makridimitris A., M. H.Pravita, *Management Science I: Public Administration. Elements of Administrative Organization (Διοικητική Επιστήμη I: Δημόσια Διοίκηση. Στοιχεία Διοικητικής Οργάνωσης)* (Athens: Sakkoulas, 2012) (in Greek).
- Ministry of Administrative Reform and Electronic Government, *Interoperability & Electronic Transaction Services Framework (Πλαίσιο Διαλειτουργικότητας & Υπηρεσιών Ηλεκτρονικών Συναλλαγών)* (2012), available at <http://www.e-gif.gov.gr> (last accessed 11 July 2021) (in Greek).
- Ministry of Digital Telecommunications and Media, *National Digital Strategy 2016-2020 (Εθνική Ψηφιακή Στρατηγική 2016-2020)* (December 2016), available at http://www.epdm.gr/el/Documents/EP_MDT/GR-Digital-Strategy_2016-2021.pdf (last accessed 11 July 2021) (in Greek).
- Organisation for Economic Co-operation and Development (OECD), *Digital Government Strategies for Transforming Public Services in Welfare Areas* (2016), available at <https://www.oecd.org/gov/digital-government/Digital-Government-Strategies-Welfare-Service.pdf> (last accessed 11/07/2021).
- OECD, *In Search of Results. Performance Management Practices* (Paris: OECD Publications, 1997).
- Papoulias D., *The Crisis is Changing our Lives and our Management (Η Κρίση Αλλάζει τη Ζωή μας και το mManagement)* (Athens: Kritiki publications, 2009) (in Greek).
- Paraskevas M., G. Asimakopoulos, V. Triantafyllou, *Information Society: Infrastructure, Services, and Impacts (Κοινωνία της Πληροφορίας: Υποδομές, Υπηρεσίες και Επιπτώσεις)* (Athens: SEAB, 2015) (in Greek).
- Rammata M., *Contemporary Greek Public Administration: Between Bureaucracy and Management (Σύγχρονη Ελληνική Δημόσια Διοίκηση: Ανάμεσα στη Γραφειοκρατία και το Μάνατζμεντ)* (Athens: Kritiki publications, 2011) (in Greek).
- Rossidis I., D. Belias, G. Aspridis, *Change Management and Leadership (Διαχείριση Αλλαγών και Ηγεσία)* (Athens: Tziolas, 2020) (in Greek).
- Rossidis I. et al., 'Preparation and Development of the Framework for the Implementation of Organisational Changes' ('Προετοιμασία και Ανάπτυξη του Πλαισίου Εφαρμογής Οργανωσιακών Αλλαγών') (Hellenic Society of Counseling and Guidance conference: The Individual and Collective Approach to Crisis Management Consulting and the Career Counseling of Socially Vulnerable Groups Athens, March 2016)) 655-665, available at [65](https://www.research-</p></div><div data-bbox=)

- gate.net/publication/319665227_Proetoimasia_kai_anaptyxe_tou_plaisiou_epharmoges_organosiakon_allagon (last accessed 11 July 2021) (in Greek).
- Spiliotopoulos E., *Handbook of Administrative Law (Εγχειρίδιο Διοικητικού Δικαίου)* (Athens: Law Library, 2017) (in Greek).
- Spinellis D. et al., *E-governance in Greece: Successes, Problems and the Road to Digital Transformation (Ηλεκτρονική Διακυβέρνηση στην Ελλάδα: Επιτυχίες, Προβλήματα και ο δρόμος προς τον Ψηφιακό Μετασχηματισμό)* (Athens: DIANEosis Research and Analysis Organization, 2018), available at https://www.dianeosis.org/wp-content/uploads/2018/03/EGov_Upd_090318.pdf (last accessed 11 July 2021) (in Greek).
- Tripathi K. P., 'A Study of Information Systems in Human Resource Management (HRM)' (2011) 22(8) *International Journal of Computer Applications* 9-13.
- Tsekos Th. N., 'European Rhythms and Greek Ways: The (Uncertain) Greek Course Towards the (Unclear) European Administrative Space ('Ευρωπαϊκοί Ρυθμοί και Ελληνικοί Τρόποι: Η (Αβέβαιη) Ελληνική Πορεία προς τον (Ασαφή) Ευρωπαϊκό Διοικητικό Χώρο') in Passas A., Th. N. Tsekos (eds), *National Administration and European Integration: The Greek experience* (Athens: Papazisis, 2008) (in Greek).
- Ugboro I. O., K. Obeng, O. Spann, 'Strategic Planning as an Effective Tool of Strategic Management in Public Sector Organizations: Evidence form Public Transit Organizations' (2011) 43(1) *Administration & Society*.
- United Nations Development Programme (UNDP), 'Institutional Reform and Change Management: Managing Change in Public Sector Organisations' (UNPD Capacity Development Resource, 2006).
- Vassilopoulos A., 'E-Governance in Greece' ('Η Ηλεκτρονική Διακυβέρνηση στην Ελλάδα') (2016), available at https://www.academia.edu/30423917/E_Governance_in_Greece_%CE%97%CE%BB%CE%B5%CE%BA%CF%84%CF%81%CE%BF%CE%BD%CE%B9%CE%BA%CE%AE_%CE%94%CE%B9%CE%B1%CE%BA%CF%85%CE%B2%CE%AD%CF%81%CE%BD%CE%B7%CF%83%CE%B7_%CF%83%CF%84%CE%B7%CE%BD_%CE%95%CE%BB%CE%B-B%CE%AC%CE%B4%CE%B1_Athanasios_Vasilopoulos_Gr_ (last accessed 11 July 2021) (in Greek).

Moulding the Right to Health in the Time of the Pandemic

GEORGIOS TSAOUSIS¹

Abstract:

The coronavirus pandemic has overturned the traditional terms of ‘normality’ in the daily lives of citizens around the world. After an inexplicable period of provocative inaction against repeated calls by the World Health Organisation (WHO), States were called to take drastic and unprecedented measures that resulted in suspending the most important fundamental rights, especially of individual and social nature. Cyprus could not, of course, be an exception to the imposition of protective and precautionary measures, having transformed from a purely social State into a social State of prevention. In the overall response to the pandemic, the report is positive. In the emerging legal environment, the anxious effort of the State mechanism to protect human life at all costs makes the principle of practical harmonisation of conflicting fundamental rights virtually inapplicable. In this environment, the citizen seems powerless and possibly vulnerable to the will of the executive power. The advent of the pandemic and the constant endangerment of human existence urge the national legislator to abandon the logic of harmonisation of fundamental rights and focus on their prioritisation.

Keywords: pandemic, public health, fundamental rights, proportionality, State intervention, restriction of rights, State of prevention, state of emergency

Introduction

The advent of the COVID-19 virus and the pandemic² declared by the WHO quite naturally disrupted the traditional conditions of ‘normality’³ in almost all State,

¹ Lecturer, School of Law, University of Nicosia.

² John M. Last (ed.), *A Dictionary of Epidemiology* (4th edn, New York: Oxford University Press, 2001), p. 325: ‘An epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people’.

³ The handshake greeting is now carefully avoided. The handshake is intertwined with the Western understanding of citizenship. On that matter, see Pamphilos Alavanos, ‘The Handshake Lost in the Pandemic: A Journey from History to Law’ (‘Η Χειραψία Χαμένη στην Πανδημία: Μια Διαδρομή από την Ιστορία ως το Δίκαιο’) (2020) 1, *Administrative Law Journal* (Athens-Thessaloniki, Sakkoulas) 94-99 (in Greek); Jan N. Bremmer, Herman Roodenberg, *A Cultural History of Gesture* (University of Groningen, 1991), available at <https://www.rug.nl/research/portal/files/3346048/BremmerH7.pdf> (last

individual and social activity (e.g. movement restriction, labour relations, social distancing, educational activities, etc.). Such a huge and dramatic event as the 2020 pandemic, which caused a global emergency, can only leave a strong mark on the domestic legal system and particularly on the law and theory of fundamental rights.⁴ Before the advent of the pandemic, one might not have thought of imposing very strict restrictions on the enjoyment of fundamental rights, which are (hopefully) gradually de-escalated, depending, of course, on the course of the spread of the virus. There has already been an international scientific debate on the limits and extent of the restrictions imposed in relation to the guaranteed constitutional freedoms, and this is because, according to another view, the consequences of the pandemic go beyond such disproportionate measures and restrictions, whose legitimacy is questioned.⁵

However, some changes in the general perception of fundamental rights may persevere after the pandemic.⁶

accessed 20 June 2021) 177; Emmanuel Putman, 'The refusal to shake the hand of a prefectural agent and an elected official for religious reasons constitutes a lack of assimilation into the French community' ('Le refus de serrer la main d'un agent préfectoral et d'un élu pour motif religieux constitue un défaut d'assimilation à la communauté française'), *Revue juridique Personnes et famille* (2018) 6, 625-647. Laurie Marguet, 'Poignée de main avec une personne de sexe opposé, une nouvelle valeur républicaine? À propos de l'arrêt du Conseil d'Etat du 11 avril 2018 (n° 412462)', *La Revue des Droits de l'Homme* n° 17/2020, available at <https://journals.openedition.org/revdh/8225?lang=fr#tocfrom1n1> (last accessed 20 June 2021) (in French).

⁴ Charalambos Anthopoulos, 'The Pandemic and the Right to Health' (Πανδημία και Δικαίωμα στην Υγεία) (*Proto Thema*, 3 May 2020), available at <https://www.protothema.gr/blogs/haralabos-anthopoulos/article/1002154/pandimia-kai-dikaioma-stin-ugeia/#Comments> (last accessed 20 June 2021) (in Greek).

⁵ Georgios Nikolopoulos, 'COVID 19 - Restricting fundamental rights through unconstitutional measures' (*COVID 19 – Περιορισμός θεμελιωδών δικαιωμάτων μέσω αντισυνταγματικών μέτρων*), available at <https://www.constitutionalism.gr/2020-04-16-nikolopoulos-pnn-arthro48s/> (last accessed 20 June 2021) (in Greek). See also David B. Rivkin Jr., Charles Stimson, 'A Constitutional Guide to Emergency Powers' (*The Wall Street Journal*, 19 March 2020), available at www.wsj.com/articles/a-constitutional-guide-to-emergency-powers-11584659429 (last accessed 20 June 2021); Akin Gump Strauss Hauer & Feld LLP, 'COVID-19: Emergency Powers And Constitutional Limits' (23 March 2020), available at <https://www.akingump.com/en/news-insights/covid-19-emergency-powers-and-constitutional-limits.html> (last accessed 20 June 2021).

⁶ For example, the protection of personal data; as COVID-19 continues to take human lives and jolt global economy, governments are urgently seeking innovative new tools to inform policy and tackle the crisis. Digital solutions based on geolocation data are emerging to help authorities monitor and contain the spread of the virus. Some are fed by mobile call data records (CDRs), i.e. data produced by telecommunication service providers on telephone calls or other telecommunications transactions, which provide valuable insights into population movements. See, Marta Kolodziejczyk, 'Technology in the Service

This is especially true of the right to health, whose protection as a fundamental principle has rightly emerged as an absolute political and social priority with the advent of the pandemic. The binding guarantee of the protection of the right to health with rules of supranational and national nature essentially determines the mutability of this right amidst the new conditions which gradually push political leaderships to adopt measures that create a ‘precautionary legal shield’ against potential health threats.

A Conceptual Approach to the Right to Health

Health comprises many different aspects (physical, mental, psychological, and cognitive). The immense progress in medical science, the constant emergence of new types of diseases, as well as the fact that it is practically impossible to characterise a natural person as ‘absolutely healthy’, are factors that cast perennial doubt on the concept of health; in short, such factors attribute the element of relevance to health. Therefore, it is possible that someone, though not absolutely healthy, lives a normal life by receiving appropriate treatment. By contrast, it is also possible that someone, seemingly healthy and active, suddenly becomes incapable of providing even the basic necessities of life to themselves. The complexity and relevance of the issue can only create a definition focused on what is certainly not covered by the concept of health.

Conceptually, then, health is defined as the situation the individual is in and where no condition characterised by medical science as a disease exists.⁷ The WHO articulated the first, specific international health-and-human-rights provisions in the Preamble to its Constitution (drawn up in 1946). It declares that:

Health is a state of complete physical, mental and social well-being⁸ and not merely the absence of disease or infirmity. The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human

of Coronavirus Containment: Potential Threats to Human Rights Protection’ (2020) 18(2) *Journal of International Relations* 156-181.

⁷ Kostas Ch. Chrysogonos, Spyros Vlachopoulos, *Individual and Social Rights (Ατομικά και Κοινωνικά Δικαιώματα)* (Nomiki Bibliothiki, 2017) 268 *et seq*, 575 *et seq* (in Greek).

⁸ It is argued that social well-being should be excluded from the conceptual framework of health because the main purpose of health is not associated with the removal of social and economic inequalities, despite the fact that they have a significant impact on human health. See Patrina Paparrigopoulou, ‘Interpretation of Article 5 of the Constitution’ in Filippos Spyropoulos et al. (eds), *Article by Article Interpretation of the Greek Constitution (Το Σύνταγμα: Κατ’ Άρθρο Ερμηνεία)* Athens-Thessaloniki: Sakkoulas, 2017) (in Greek) 127-128.

being without distinction of race, religion, political belief, economic, or social condition⁹.

Since then, the right to health has been enshrined in core international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR); key regional human rights treaties; and domestic constitutions, over two-thirds of which include provisions on health or health care.¹⁰ Certain other provisions contained in international statements of human rights may be seen as relevant in claims for rights to particular medical treatments, particularly at the beginning and end of life, even though they may not make a direct reference to health.¹¹

The value of health is inextricably linked to the right to life, a pillar, and a necessary condition for the exercise of all fundamental rights¹² (individual, political and

⁹ Grad, Frank P. (2002). *The preamble of the Constitution of the World Health Organization: public health classics*, Bulletin of the World Health Organization: the International Journal of Public Health 2002 ; 80(12): 981-984

¹⁰ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNGA res. 2200A (XXI) (ICESC) art 12. See also, for example, Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) UNGA res. 34/180 (CEDAW); Convention on the Rights of the Child (adopted 10 November 1989, entered into force 2 September 1990), UNGA res. 44/25 (CRC); Convention on the Rights of Persons with Disabilities (adopted 13 December 2006) UNGA Res. 61/106; Eleanor D. Kinney, Brian A. Clark, 'Provisions for Health and Health Care in the Constitutions of the Countries of the World' (2004) 37(2) *Cornell International Law Journal* 285–355; Judith Bueno De Mesquita, 'The Universal Periodic Review: A Valuable New Procedure for the Right to Health?' (December 2019) D 21(2) *Health and Human Rights Journal* 263-277.

¹¹ See Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 3; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) UNGA res. 2200A (XXI) (ICCPR) art 6. See *Pretty v the United Kingdom* Appl. no 2346/02 European Court of Human Rights (ECtHR, 29 April 2002); Linda Clarke, 'Abortion: A Rights Issue?' in Robert Lee, Derek Morgan (eds), *Birthrights: Law and Ethics at the Beginnings of Life* (London: Routledge, 1989); John Harris, *The Value of Life: An Introduction to Medical Ethics* (Routledge, 1985); Penney Lewis, *Assisted Dying and Legal Change* (Oxford University Press, 2007); Richard Huxtable, *Euthanasia, Ethics and the Law: From Conflict to Compromise* (Routledge, 2007); John Keown, *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation* (Cambridge University Press, 2002); Graeme Laurie, Shawn Harmon, and Edward Dove, *Mason & McCall Smith's Law and Medical Ethics* (11th edn, Oxford University Press, 2019).

¹² Regarding Human Rights legal framework, see Raymond J. Vincent, *Human Rights and International Relations* (Cambridge University Press, 1986); Jack Donnelly, *International Human Rights* Boulder, CO: Westview Press, 1993) Christian Tomuschat, *Human Rights: Between Idealism and Realism*, (Oxford University Press, 2003) David P. Forsythe, *Human Rights in International Relations* (Cambridge University Press, 2006).

social). The interpretive approach of the right to health is of a dynamic nature in the sense that health or, more precisely, the possibility of fighting diseases or not and eliminating all kinds of risks depends on the progress of medical science¹³ and the means available. The pandemic has endangered personal life, biological existence, survival, living and, of course, social coexistence (self-evident until recently). However, the coronavirus disease has caused panic all over the world, as it is likely to result in death. Numerous studies —using a range of methods— estimate that in many countries some 5 to 10 people will die for every 1,000 people infected with COVID-19¹⁴. The root of global turmoil is located in the fear of death and not just the fear of contracting the coronavirus disease,¹⁵ which, according to experts, is a variant of the common flu, and it is only a matter of time¹⁶ before the appropriate vaccine is developed, a vaccine that will allow us to return to ‘normality’ which we all took for granted until recently.

The right to life, which is inextricably linked to the very continuation of human existence, is, undoubtedly, the cornerstone of all fundamental rights.

Health as a Fundamental Right

In times past, the AIDS epidemic, as well as reproductive and sexual health issues, played an important role in acknowledging the relation between health and human rights, as those include legal and strategic parameters. Conversely, the health/individual rights relation can be interpreted as follows: acknowledgement of the importance of human rights is a catalyst for tackling the current pandemic because, as it has been argued, the combination of disease with the abandonment of rights

¹³ The rapid advancement of science has expanded the scope of medicine and biology. Biomedicine no longer includes only the health of the individual and society but extends to the understanding and creation of life itself by raising enormous ethical and social issues (such as the cloning of humans or certain species of animals that have become extinct due to human activity).

¹⁴ Smriti Mallapaty, ‘How Deadly is the Coronavirus? Scientists Are Close to an Answer’ (*Nature*, 16 June 2020), available at <https://www.nature.com/articles/d41586-020-01738-2> (last accessed 20 June 2021). See also WHO, ‘International Guidelines for Certification and Classification (Coding) of COVID-19 as a Cause of Death’, available at: https://www.who.int/classifications/icd/Guidelines_Cause_of_Death_COVID-19.pdf?ua=1 (last accessed 20 June 2021).

¹⁵ Antonis Manitakis ‘The Pandemic Between Law and Morality With Life as a Constitutional Value’ (‘Η Πανδημία Ανάμεσα στο Δίκαιο και στην Ηθική, με την Ζωή ως Συνταγματική Αξία’) (May 2020) available at <https://www.constitutionalism.gr/2020-05-manitakis-pandimia-zoi-syntagmatiki-axia/> (last accessed 20 June 2021) (in Greek).

¹⁶ Sarah Boseley (ed.), ‘First Human Trial Results Raise Hopes for Coronavirus Vaccine’, (*The Guardian*, 19 May 2020), available at <https://www.theguardian.com/society/2020/may/18/first-human-trial-results-raise-hopes-for-coronavirus-vaccine> (last accessed 20 June 2021).

of both the ill and those generally affected by the pandemic is a human tragedy.¹⁷ In the face of the pandemic, the balance between security and freedom has perhaps been put to the biggest test since the period of change brought about by the terrorist attacks of 11 September 2001.¹⁸

Health rights are often seen as human rights in international law, in (European) regional human rights law, and in national constitutions, including those of the EU Member States. Rights are a potent theme in health law and biomedical ethics.¹⁹ The right to health, as a complement or continuation of the protection of personal freedom *stricto sensu*, that is, of natural bodily freedom and human value, is one of the fundamental rights. In terms of human value, its main manifestations in the field of health, biomedicine and the protection of the genetic identity focus²⁰ on: a) the prohibition of genetic discrimination, b) the right of citizens to be informed by competent professionals about their state of health, c) the right to physical and mental integrity, d) the establishment of medical confidentiality, and e) the protection of human dignity at the end of life.

Of course, it should be emphasised that health is approached from a different perspective in relation to legal and medical science. The science of law seeks, through the delegation of powers and the effective control of State institutions, the establishment of social peace by consolidating a sense of legal certainty and administering justice to citizens. In other words, it aims to create a State that will function properly by harmonising opposing rights and obligations. The medical science is called upon to tackle any health issues of citizens based on the existing

¹⁷ Mary Crewe, 'The HIV/AIDS Epidemic and Human Rights Responses' in Andrew Clapham et al. (eds), *Realizing the Right to Health* (Rüffer & Rub, 2009).; Michael Kirby, 'The Right to Health Fifty Years on: Still Skeptical?', (1999) 4(1) *Health and Human Rights* 5-25.

¹⁸ Xenophon Contiades, Alkmini Fotiadou, 'Pandemic, state of prevention and resilience of the Constitution. State and Constitution in the face of the health crisis' (Πανδημία, κράτος πρόληψης και ανθεκτικότητα του Συντάγματος. Κράτος και Σύνταγμα μπροστά στην υγειονομική κρίση) (2020) 1 *Administrative Law Journal* (Athens-Thessaloniki: Sakkoulas, 2020) 17-27 (in Greek).

¹⁹ See, for example: George J. Annas et al. (eds), *Health and Human Rights: A Reader* (New York: Routledge, 1999); Jonathan M. Mann et al., 'Health and Human Rights' (1994) 1(1) *Health and Human Rights* 6; Elizabeth Wicks, *Human Rights and Health Care* (Hart Publishing, 2007); Aart Hendriks, 'The Right to Health' (1998) 5 *European Journal of Health Law* 389; Jean McHale, 'Enforcing Health Care Rights in the English Courts' in Richard Burchill, David Harris, Annet Owers (eds), *Economic, Social and Cultural Rights: Their Implementation in UK Law* (University of Nottingham Human Rights Centre, 1999); Brigit Toebes, 'Right to Health and Health Care' (2009) 1 *Encyclopedia for Human Rights* 365; Id., *The Right to Health as a Human Right in International Law* (Intersentia, 1999).

²⁰ Paparrigopoulou (no 8) 130.

health structures and, of course, on the very progress of both research and technology. Between the two sciences, a distinction similar to the one explored by great tragedians, Sophocles and Euripides, is crystallised. According to Aristotle, —like in the science of law— by placing man at the center of his tragic world Sophocles presents his heroes as they should be (οἷους δεῖ εἶναι) that is, idealised according to moral and aesthetic ethics, so that the viewers can recognize their own virtues and passions in them. Euripides, however, presents his heroes as more human, with their passions and weaknesses, that is, exactly as they are and not idealised or supernatural other tragedians would present them.²¹ Euripides' logic embodies the agony of the modern doctor, who, despite all adversity, is called upon to do the best for the patient. As Mann et al. noted in the first issue of the *Health and Human Rights Journal* in 1994, the fields of health and human rights have 'differing philosophical perspectives, vocabularies, professional recruitment and training, societal roles, and methods of work'.²² By contrast, the law seeks to create the 'appropriate State' which, by protecting the rights and the proper functioning of institutions, can effectively defend human dignity and, consequently, the (possibly self-evident) right of every natural person to access to appropriate medical care.

According to the prevailing view, this right is part of the second-generation rights,²³ that is, the rights that have been developed and guaranteed in a regulatory way since the mid-19th century, even though they are closely connected with both first-generation rights (life protection) and third-generation rights (biomedical protection, cloning, DNA lesions, etc.). The Office of the High Commissioner for Human Rights (OHCHR) is the division of the UN responsible for mainstreaming human rights across the UN system, including the right to health, , while it also takes a lead role in advising governments on implementing the right to health in national contexts.²⁴

The right to health is of a dual nature (status mixtus). As far as the individual right is concerned, it is, as already mentioned, a complement to personal freedom and consists in every citizen claiming not to endanger their health by any activity

²¹ Dimitris K. Krevattas, *The Three Great Tragedians: Euripides, Sophocles, Aeschylus (Οι Τρεις Μεγάλοι Τραγικοί: Ευριπίδης, Σοφοκλής, Αισχύλος)* (Kastaniotis, 1999)58-64.

²² Mann (no 18) 7.

²³ See Emmanouil Roukounas, *International Protection of Human Rights (Διεθνής Προστασία Ανθρωπίνων Δικαιωμάτων)* (Athens: Estia, 1995) 15 *et seq* (in Greek).

²⁴ More about the role of the OHCHR concerning the right to health see Gillian MacNaughton, Mariah McGill, 'The Challenge of Interdisciplinarity in Operationalizing the Right to Health' (December 2019) 21(2) *Health and Human Rights Journal* 251-262.

that is subject to the direct or indirect control of State institutions. It contains negative content (*status negativus*) if it requires the State to refrain from any action that could endanger the state of health. Therefore, *status negativus* is linked to the idea of civil liberalism by constitutionally guaranteeing the rule of law.²⁵ On the other hand, as a social principle,²⁶ the right to health consists in the implementation of specific positive actions by the State (recruitment of doctors, establishment of hospitals in urban centers, medical centres in remote areas, control of medical equipment, pharmacy licensing, prescription of drugs) so that a level of health care can be guaranteed. Public health, according to Winslow's temporal-scope definition, is the science and art of preventing disease, prolonging life, and promoting physical health and human efficiency mainly by means of an organised effort of society and by developing a social machine that ensures that everybody has a standard of living, which is sufficient for maintaining their health.²⁷

It goes without saying that the quality of care provided by State structures, as the 10-year economic crisis has taught us, depends on the economic and financial capacity of the State.²⁸ However, the social manifestation of the right to health re-

²⁵ Dimitris Th. Tsatsos, *Constitutional Law III: Fundamental Rights (Συνταγματικό Δίκαιο Γ', Θεμελιώδη Δικαιώματα)* (Athens-Thessaloniki: Sakkoulas, 1987) 195-196 (in Greek).

²⁶ For a more detailed presentation of the social nature of the right see Konstantinos Kremalis, *To Δίκαιο της Υγείας (The Law of Health)* (Athens: Nomiki Bibliothiki, 2011)92 (in Greek), where the characterisation as 'mixed social right' is mentioned by Eirini Anaplioti-Vazaïou, 115; Epaminondas Spiliotopoulou, 'Guarantees for the Right to Choose Doctors and Patients Freely' ('Εγγυήσεις για την ελεύθερη επιλογή ιατρού κι ασθενούς') (1995) *Applications of Public Law* 130 *et seq.*

²⁷ Charles-Edward A. Winslow, *The evolution and Significance of the Modern Public Health Campaign* (New York: Yale University Press, 1923). The key feature of public health, which gives it a different ethical content than that which governs the doctor-patient relationship in clinical practice, is that it is characterised by collectivity. The prestigious US Institute of Medicine, endorsing this collective character, had since 1988 defined as its public health mission to ensure, through collective action, the conditions under which people can be healthy.

²⁸ A typical example is the amount of pensions provided and the legality of the corresponding reductions due to the economic crisis. The pension, provided that the conditions for receiving it are met, is a fundamental individual right. The amount of the monthly payment, however, is inextricably linked to the existing possibilities. See 'The 2012 Law on the Reduction of Remuneration and Pensions of Officials, Employees and Pensioners of the State Service and the Wider Public Sector, Law 168(I)/2012' 'Ο περί της Μείωσης των Απολαβών και των Συντάξεων των Αξιωματούχων, Εργοδοτούμενων και Συνταξιούχων της Κρατικής Υπηρεσίας και του Ευρύτερου Δημόσιου Τομέα Νόμος του 2012, Ν. 168(I)/2012' (in Greek) [] and then the recent decision *The Republic & Ors v Avgousti*, 'Appeals against an Administrative Court Decision' Appl. nos 177/18, 75/19, 76/19, 77/19, 79/19, 80/19, 84/19 and 85/19 (Supreme Court of Cyprus, 10 April 2020) (*Κυπριακή Δημοκρατία v Αυγουστή κ.α.*, 'Εφέσεις κατά Απόφασης Διοικητικού Δικαστηρίου Αρ. 177/18, 75/19, 76/19, 77/19, 79/19, 80/19, 84/19 και 85/19' (Ανώτατο Δικαστήριο Κύπρου, 10 Απριλίου 2020) (in Greek).

quires that the State take concrete positive actions. For example, in Cyprus and in many other countries governments eventually provided financial aid through job retention schemes (furlough), aid to the self-employed, and temporary boosts to unemployment benefits to ensure a minimum, decent standard of living. The scope and effectiveness of the actions, combined with the social nature of the right, should not be construed as every citizen's right to be healthy (both physically and mentally).²⁹ After all, it is impossible for any organised State to eradicate every form of disease or heal every form of bodily harm resulting from an accident. The duration of human life and the quality of health of every living being is a combination of factors that go beyond predictability in strictly technocratic and scientific terms. The social nature of the right implies the obligation of the State mechanism to establish the appropriate organisational and technocratic structures to ensure the best protection of the right to health care.³⁰ These two aspects of law are marked by a relationship of interaction and complementarity.³¹ As a matter of fact, despite its enforcement power in the hierarchy of legal rules, the legal rule is incapable of ensuring a perfectly healthy life. Good or bad, health depends primarily on the choic-

²⁹ Judith Asher, *The Right to Health: A Resource Manual for NGOs* (Leiden: Brill/Nijhoff, 2010) 27-28.

³⁰ 'As a 'welfare State' Manesis characterises the State which ensures the provision of social services through the legislative and administrative way and which has as its main goal the provision of social security, i.e. ensuring a minimum standard of living conditions for the citizens. As a 'social State' ('Sozialstaat' in German) he describes a State where social rights do not merely express a legislative or administrative provision but are guaranteed at a constitutional level, so that the social policy is constitutionally established and social security has constitutional foundations', in a preamble by Aristonoulos Manesis in Giorgos Katrougalos, *Θεσμοί κοινωνικής Πολιτικής και Προστασία των Κοινωνικών Δικαιωμάτων σε Διεθνές και Εθνικό Επίπεδο (Social Policy Institutions and Protection of Social Rights at an International and National Level)*, Athens: Nomiki Bibliothiki, 2009), 30; Ibid., 'The Problem of the Protection of Social Rights in the European Area' ('Η Προβληματική της Προστασίας των Κοινωνικών Δικαιωμάτων στον Ευρωπαϊκό χώρο') in Aristonoulos Manesis, *Constitutional Theory and Practice 1980-2000*, Athens-Thessaloniki: Sakoulas, 2007, p. 572 *et seq* (in Greek). Cf. Giorgos Katrougalos, *The Welfare State of the Post-Industrial Era (Το κοινωνικό Κράτος της Μεταβιομηχανικής Εποχής)* (Athens-Komotini, Sakkoulas, 1998) 504 *et seq.*, 537 *et seq* (in Greek). For the need to distance oneself from the one-dimensional 'welfare' version of social rights, see the preface of Giorgos Sotirelis, Christos Tsaitouridis in: Giorgos Sotirelis, Christos Tsaitouridis (eds), *Social Rights and Welfare State Crisis (Κοινωνικά Δικαιώματα και Κρίση του Κράτους Πρόνοιας)* (Athens: Savvalas 2007) 16 (in Greek); Anastasia Poulou, 'The Contested Social Rights and the Modern Concept of Social Democracy According to Aristonoulos Manesis' (*Τα Βαλλόμενα Κοινωνικά Δικαιώματα και η Σύγχρονη Έννοια της Κοινωνικής Δημοκρατίας Κατά τον Αριστόβουλο Μάνεση*) [(29 June 2019), available at <https://www.constitutionalism.gr/ta-vallomena-koινωνika-dikaiomata/> (last accessed 20 June 2021) (in Greek).

³¹ Prodromos D. Dagtoglou, *Constitutional Law: Individual and Social Rights (Συνταγματικό Δίκαιο: Ατομικά και Κοινωνικά Δικαιώματα)* (4th edn, Athens Thessaloniki: Sakkoulas, 2012) 58 (in Greek).

es/free will of the individual (diet, exercise, unhealthy habits, etc.) and secondarily on the influence of the external environment (pollution, climatic conditions, accidental events, etc.). After all, a person's state of health can be better determined over time rather than permanently.

In conditions of economic freedom and free economic development, the establishment of private healthcare structures emerges as a self-evident action on the part of the private enterprise, apparently for profit. Lack of access to these structures for all citizens may be a '*natural consequence*' of the economic and social stratification of societies that faithfully follow the model of liberal economy, but it should not be forgotten that, in this case, it is the effective defence of a fundamental right that is at stake and not the abstract biotic prosperity which, up to a point, also touches on the personal capacity of the individual. With the exception of the United States (US), where access to health care is limited to such an extent that the attempt to expand the social right to health by introducing the famous 'Obamacare'³² plan faced a fierce (even inter-party) war even in the midst of the pandemic,³³ the policies followed in Europe³⁴ admittedly seek at least to guarantee a minimum standard of protection for everybody. In any case, however, it is commonplace for the private enterprise in the field of health to bring about a clear asymmetry among citizens in defending the fundamental right to life. The long-term economic recession, which,

³² Robert E. Goodin, 'Reasons for Reason-Giving: The Obamacare Debates' (December 2018) 43(6) *Journal of Health Politics, Policy and Law* 991-1012; Nicholas Bagley, 'Is Obamacare Really Unconstitutional?' *The New England Journal of Medicine (NEJM)* (Massachusetts Medical Society, 2020) 400-401.

³³ BBC, 'Obamacare: Trump Asks Supreme Court to Invalidate Affordable Care Act' (*BBC News*, 26 June 2020), available at <https://www.bbc.com/news/world-us-canada-53190429> (last accessed 20 June 2021).

³⁴ On 23 October 2007, the European Commission adopted a new Health Strategy called 'Together for Health: A Strategic Approach for the EU 2008-2013'. Building on current work, this Strategy aims to provide, for the first time, an overarching strategic framework spanning across core issues in health as well as health in all policies and global health issues. The Strategy focuses on four principles and three strategic themes for improving health in the EU. The principles include taking a value-driven approach, recognising the links between health and economic prosperity, integrating health in all policies, and strengthening the EU's voice in global health. The strategic themes include Fostering Good Health in an Ageing Europe, Protecting Citizens from Health Threats, and Dynamic Health Systems and New Technologies. See Tim Lang et al., 'Building a healthy CAP' (2001) 7 *Eurohealth* 34-40; Mike Rayner, 'European Union Policy and Health' (1995) 311 *BMJ* 1180-1; Martin McKee, Elias Mossialos, Paul Belcher, *The influence of European Law on National Health Policy* (1996) 6(4) *Journal European Social Policy* 268-269; Elias Mossialos, Martin McKee, *Is a European Healthcare Policy Emerging?* (2001) 323(248) *BMJ*; Henriette D. C. Roscam Abbing, *EU Cross-Border Healthcare and Health Law* (March 2015) 22(1) *European Journal of Health Law* 1-12.

unfortunately, is intensified with the advent of the pandemic, weakens the State health structures, thus degrading the protection of the right to health, at least for those who only have limited financial resources. It is worth noting that the lack of balanced protection and the consequent issues of equality³⁵ resulting from the access to better health care services for some but not all citizens cannot be solved by a rule of law (at the level of a formal law) because that would require the restructuring of the existing economic model (of a market economy) and, certainly, of political will. However, preservation of the asset of health could not be excluded from international regulatory texts discussed below.

Introducing Binding Rules of a Supranational Nature

The right to health is a traditional socio-economic right, and the status of an aspirational right has been accorded with the main problematic issue, which is its non-justiciable character. At the level of binding rules of international law, the European Convention on Human Rights (ECHR) does not guarantee a right to health care or a right to be healthy. Matters such as health, housing, social benefits, and other socio-economic rights are traditionally more appropriately addressed in instruments such as the European Social Charter (ESC).³⁶ The obligations assumed by the Contracting States under the Convention are of a negative as well as of a positive kind.³⁷ According to the current case law of ECHR, health-related cases brought before the Court have most frequently been argued under Articles 2³⁸, 3³⁹,

³⁵ For equality in the right to health see Norman Daniels, *Just Health: Meeting Health Needs Fairly* (Cambridge: Cambridge University Press, 2008).

³⁶ Article 11 of the European Social Charter guarantees the right to protection of health.

³⁷ Under the negative obligation, a Contracting State must not interfere with the health of an individual unless there is a Convention-compliant justification for doing so. A Contracting State may also be required to take measures to safeguard the health of an individual under the so-called positive obligations.

³⁸ Where it is shown that the authorities of a State have put an individual's life at risk through the denial of health care that they have otherwise agreed to make available to the population in general (*Cyprus v. Turkey*, Appl. no 25781/94 (ECtHR, 10 May 2001), para 219; *Nitecki v. Poland*, Appl. no 65653/01 (ECtHR 21 March 2002); *Oyal v Turkey*, Appl. no 4864/05 (ECtHR, 10 May 2001).

³⁹ State agents must refrain from treatment which damages a person's physical health. At the same time, every State should take positive measures to protect the physical and mental health of individuals who are in a disadvantaged position (e.g. prisoners).

8⁴⁰ and 14⁴¹ of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (opened for signature in Oviedo, Spain on 04 April 1997), ratified by Cyprus and entered into force on 01 July 2002.

It should be noted at the outset that health care is not part of the EU goals. However, the EU has recognized health as a human right in its policy documents, such as the European Commission's White Paper, 'Together for Health'.⁴² The Council of Europe's ESC Article 11, first recognized⁴³ by the Court of Justice of the European Union (CJEU) in the *Defrenne*⁴⁴ case, covers the 'right to the protection of health', obliging States to 'take appropriate measures' to 'remove as far as possible the causes of ill-health', 'to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health', and 'to prevent as far as possible epidemic, endemic and other diseases as well as accidents'. The CJEU mentioned human dignity⁴⁵ in its judicial review of Directive 98/44/EC on the legal protection of biotechnological inventions.

The formal place of human rights in the EU legal order changed with the incorporation of the EU Charter of Fundamental Rights and Freedoms 2000 (EU CFR) into the Treaties in December 2009.⁴⁶ Article 35 of the Charter guarantees the right to health (care).⁴⁷ In the context of health rights, and acknowledging the jurispru-

⁴⁰ The Court treats the notion of private life as a term covering the right to the protection of one's physical, moral, and psychological integrity, as well as the right to choose, or to exercise one's personal autonomy, to refuse medical treatment or to request a particular form of medical treatment. (*Glass v the United Kingdom*, Appl. no 61827/00 (ECtHR, 20 March 2007), paras 74-83; *Tysic v Poland*, Appl. no 5410/03 (ECtHR, 20 March 2007).

⁴¹ The right not to be discriminated against on account of one's physical or mental condition (*Kiyutin v Russia*, Appl. no 552/10 (ECtHR, 15 March 2011); *I.B. v Greece*, Appl. no 552/10 (ECtHR, 3 October 2013).

⁴² Commission of the European Communities, 'Together for Health: A Strategic Approach for the EU 2008-2013 (White Paper)' (Brussels, 23 October 2007) COM (2007) 630 final.

⁴³ Tamara K. Hervey, Jean V. McHale, 'Rights: Health Rights as Human Rights' in *European Union Health Law: Themes and Implications* (Cambridge University Press, 2015) 156-183.

⁴⁴ *Defrenne v. Sabena*, Case no 149/77 (Cour de Cassation, 15 June 1978) 130.

⁴⁵ Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions, paras 70-77.

⁴⁶ European Commission, 'Declaration Concerning the Charter of Fundamental Rights of the EU' (EU, 2010), 337. See Sionaidh Douglas-Scott, 'The European Union and Human Rights after Lisbon' (2011) 11(4) *Human Rights Law Review*, 645.

⁴⁷ Article 35 'Health care': 'Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high

dence of the CJEU, we see an increased willingness to consider human rights implications in EU litigation. For instance, Article 35 of EU CFR was cited by the CJEU only once before 2009 (and that was only in an AG Opinion⁴⁸) but has been cited many times ever since.⁴⁹ At the level of legislative initiative, health-related issues had been identified in the Directives 98/44/EC of 6 July 1998 regarding the legal protection of biotechnological inventions and 2011/24/EU of 9 March 2011 regarding the application of patients' rights in cross-border healthcare. International human rights law allows for the limitation of certain rights, especially when addressing a major health crisis. Moreover, States can also introduce emergency laws when exceptional circumstances arise. These laws can derogate from some human rights, but they need to be in force for a limited time and in a supervised manner.⁵⁰

Health takes on special significance as a protected legal benefit. Modern States must ensure this right in relation to human value. The level of protection of the right to health in the Cypriot legal order determines, apart from its protective scope, the content of the claims that citizens have against the State.

The Protection of the Right Within the Constitution

In the Constitution of Cyprus (unlike the Greek one⁵¹), there is no explicit guarantee of the right to health, which, according to the prevailing grammatical, systematic, and teleological interpretive approach is nevertheless preserved by the provision of

level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities'.

⁴⁸ Opinion in *Aikaterini Stamatelaki v NPDD Organismos Asfaliseos Eleftheron Epangelmaton (OAE)* Case no 444/05 (Second Chamber, 19 April 2007) 24.

⁴⁹ *Hervey, McHale* (no 42) 165. See *Deutsches Weintor eG v Land Rheinland-Pfalz*, Case no 544/10 (Third Chamber), 6 September 2012) 526; *Susilo*, Case no 84/11 (Third Chamber) 21 June 2012) 374; *Perez and Gomez*, Case nos 570/07, 571/07 (Grand Chamber, 1 June 2010) 300; Opinion in *Marc Michel Josemans v Burgemeester van Maastricht*, Case no 137/09 (Second Chamber, 16 December 2010) 433. Order in *André Rossius and Marc Collard v Belgian State*, Case nos 267/10, 268/10 (Fifth Chamber, 23 May 2011) 332 was found inadmissible for lack of jurisdiction.

⁵⁰ European Union Agency for Fundamental Rights, *Coronavirus Pandemic in the EU – Fundamental Rights Implications*, Bulletins 1 & 2 (European Union Agency for Fundamental Rights, 2020), available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin_en.pdf (last accessed 20 June 2021).

⁵¹ In the Greek Constitution, the right to health is guaranteed by the provision of Article 7 par. 2 which stipulates that 'torture, any bodily injury, damage to health, or the exercise of psychological violence, as well as any other violation of human dignity, is prohibited and punishable, as provided by law'. Article 5 par. 5 states that 'everyone has the right to protection of their health and genetic identity', and also Article 21 par. 3 stipulates that 'the State takes care of the health of the citizens and takes special measures for the protection of youth, old age, disability and for the care of the poor'. It is worth noting that the

Article 7 par 1 which stipulates that ‘everyone has the right to life and physical integrity’. Also, Article 9 of the Constitution stipulates that every person has the right to sufficient living conditions and social security. The Constitution does not attempt to define the notion of ‘sufficient living conditions’. However, it is submitted that the State has an obligation to create and maintain such conditions of life, of work and of health that allow every person to enjoy a standard of living adequate for the health and well-being of themselves and their family.⁵² There is no doubt that such provision establishes a social right and, as such, should be regarded as not giving its bearer the power to satisfy it with no further formalities.⁵³ Besides, its exercise presupposes organised State intervention⁵⁴ that depends on both the capacity of the State mechanism and the will of the respective executive power. It is, of course, worth mentioning the —extremely relevant under the current circumstances— provision of Article 11 par. 2 per. e’, which imposes measures that are restrictive of the freedom of movement to prevent the spread of communicable diseases.

Lack of an explicit guarantee of the right in the Constitution in no way distorts the importance and scope of its protection. Besides, it is self-evident that health protection is included in the right to life protection which is also a *sine qua non* condition for the specific benefit of health. Moreover, the indisputable supremacy of the Union law,⁵⁵ and especially of the ECHR law,⁵⁶ makes the addition of a more

right to health is not constitutionally guaranteed in the United Kingdom (UK), where it is guaranteed through the Human Rights Act 1998 and the ECHR.

⁵² Achilles C. Emilianides, *Constitutional Law in Cyprus*, (Wolters Kluwer Law & Business, 2019), 195-196. See also Criton Tornaritis, ‘The Social and Economic Rights under the Law of the Republic of Cyprus’ in *Mellanges Bridel* (Lausanne, 1968) 533-556.

⁵³ Filippou K. Spyropoulos, *Introduction to Constitutional Law II, Fundamental Rights, General Part* (Εισαγωγή στο Συνταγματικό Δίκαιο II, Θεμελιώδη Δικαιώματα, Γενικό μέρος) (Themis-Sakkoulas, 2012) 14 (in Greek).

⁵⁴ Kostas Paraskevas, *Cypriot Constitutional Law, Fundamental Rights and Freedoms* (Κυπριακό Συνταγματικό Δίκαιο, Θεμελιώδη Δικαιώματα και Ελευθερίες), (Nomiki Bibliothiki, 2015) 114 *et seq.* (in Greek).

⁵⁵ Provision 1A of the Constitution: No provision of the Constitution shall be deemed to invalidate any laws adopted, acts carried out or measures taken by the Republic which are necessitated by its obligations as a Member State of the European Union, nor shall it prevent Regulations, Directives or other binding acts or legislative measures adopted by the European Union or by the European Communities or by their institutions or by their competent bodies on the basis of the Treaties establishing the European Communities or the European Union, since they have legal force in the Republic.

⁵⁶ For a detailed presentation of the case law of the ECtHR thematic report see ECtHR, ‘Health-related issues in the case-law of the European Court of Human Rights’ (June 2015), available at https://www.echr.coe.int/Documents/Research_report_health.pdf (last accessed 20 June 2021).

specific provision to guarantee the right to health unnecessary. Consequently, the provision of Article 9 on ensuring quality living conditions for physical and mental health complements the social aspect of the right.

The incorporation of a second or third-generation fundamental right into a broader first-generation right through interpretation, is, if not the most usual, an acceptable legal practice of legislation and jurisprudence at the very least which aims at maintaining the normative force of the Constitution, which, in its turn, should guarantee the rights considered necessary means for the maintenance and defense of the democratic rule of law. Thus, just as the right to health is interpretively incorporated into the right to life protection, so is the right to the protection of personal data incorporated into the broader right to the protection of privacy. A typical example is France, which, even though it has been a pioneer in the protection of personal data by adopting a relevant law in 1978⁵⁷ has not, however, considered the introduction of a more specific provision at a constitutional level necessary so far (as was the case in Cyprus). According to the established interpretation of the case law, the protection of personal data is a fundamental right that is constitutionally protected through the protection of privacy.⁵⁸ The framework for the protection of the right to health in the fields of State action and economic activity is regulated on the initiative of the national legislator.

The Creation of a Protective Environment to Ensure Public Health

The wider health of the population, the context in which health care is provided and the grim reality of inequalities in care and of resource allocation, as well as social justice dilemmas are issues that, at the crossroads of public health, must be part of the expanded field of modern Bioethics,⁵⁹ considering their moral dimension and the human rights involved. The concept of public-health legal preparedness refers to the specific legal reference points vital to intervention in a public health emer-

⁵⁷ 'Law n° 78-17 (January 6, 1978) relating to data processing, files and freedoms' ('Loi n° 78-17 (6 Janvier 1978) relative à l'informatique, aux fichiers et aux libertés').

⁵⁸ See 'Constitutional Council decisions' ('Decisions du Conseil Constitutionnel'), déc. n° 91-294 DC, 25 juillet. 1991, Cons. const, déc. n° 99-416 DC, 23 juill. 1999, Cons. const., déc. n° 2016-591 QPC, 21 oct. 2016, Cons. const., déc. n° 2017-752 DC, 8 sept. 2017, Cons. const, déc. n° 2015-478 QPC, 24 juill. 2015. Cf. Vasilis A Sotiropoulos, *The Constitutional Protection of Personal Data (Η Συνταγματική Προστασία των Προσωπικών Δεδομένων)* (Athina-Thessaloniki: Sakkoulas, 2006) (in Greek).

⁵⁹ Norman Daniels, 'Equity and Population Health: Toward a Broader Bioethics Agenda' (2006) (36)4 *Hastings Center Report* 22-35.

gency.⁶⁰ Moreover, the public-health justification may be invoked as a ground for limiting certain individual interests to deal with a serious threat to individuals or the health of the population and does not require complete disregard for a person's basic fundamental rights.⁶¹ Constitutional guarantees of life, liberty, and property, of which a person cannot be deprived without due process of law, do not limit the exercise of the police power of the State to preserve public health, as long as that power is reasonably and fairly exercised and not abused.⁶² In Cyprus, the protection of the right to health is indirectly guaranteed by the Safeguarding and Protecting Patients' Rights Act which incorporated patients' rights into the domestic legal system at a European level (see the Preamble⁶³). The Law essentially forms a sphere of protection which includes the basic rights of patients (including the right to decent treatment and health care, equal access to State health facilities,⁶⁴ the right to inform the patient and to complain of any violation, etc.). The Law on Infectious Diseases essentially establishes a defense map of the State from particularly dangerous and infectious diseases. In fact, with the advent of the pandemic, the legislator has already made two amendments⁶⁵ to the Law in order to protect citizens' health more effectively. The regulatory framework for the protection of the right to

⁶⁰ Anthony D. Moulton et al., 'What Is Public Health Legal Preparedness?' (2003) 31(4) *The Journal of Law, Medicine & Ethics (JLME)* 672.

⁶¹ Octávio Luiz Motta Ferraz, 'The Politics of the Right to Health' in *Health as a Human Right: The Politics and Judicialisation of Health in Brazil* (Cambridge University Press, 2020) 23-100.

⁶² Erin M. Page, 'Balancing Individual Rights and Public Health Safety during Quarantine: The U.S. and Canada' (2006-2007) 38(3) *Case Western Reserve Journal of International Law*, available at <https://scholarlycommons.law.case.edu/jil/vol38/iss3/4/> (last accessed 20 June 2021).

⁶³ 'Safeguarding and Protecting Patients' Rights Act' ('Ο περί της Κατοχύρωσης και της Προστασίας των Δικαιωμάτων των Ασθενών Νόμος του 2004 (Ν. 1(Ι)/2005').

⁶⁴ It is noted that equal access to health services and the quality of these services is ensured by the Law on Physicians, whose provision of Article 5 stipulates that 'the doctor must show all patients equal care, diligence and devotion, regardless of the financial situation and social position of each one and regardless of their personal feelings'.

⁶⁵ With the most important one being that of Law 72(Ι)/2020 which introduces the concept of 'beneficial customer service space' and which is enriched in Article 7 regarding the process of operation suspension of a business or economic activity, ban notification on using the property, and the powers of police authorities.

health is complemented⁶⁶ by the General Health System Law of 2001⁶⁷ which also strengthens the right to equal treatment and aims —as reflected by the legislator’s ambition in the Preamble— at ensuring high level health care services through the creation of the General Health System (GHS). Regarding medical liability, it is possible to bring action if the treating physician does not provide the care that is reasonably expected of the average prudent person.⁶⁸

The case-law attitude could not deviate from the attitude of the average/prudent citizen who wants to ensure appropriate conditions of health care protection. In particular, it has been judged that:

[...] legislation related to the protection of public health must be respected zealously. The Courts will not fail to perform their duty to strictly implement the Law and protect the general public, by imposing, depending on the facts of the case, imprisonment sentences.⁶⁹

Of course, any measures adopted by the State authorities should be harmonised with citizens’ rights, which may be violated by actions that go beyond the purpose of ensuring public health by violating the core of individual rights. As is characteristically stated in a decision on an appeal seeking the annulment of the decision not to grant asylum to an HIV-positive applicant ‘[...] on the basis of what the applicant relied on, I would tend towards her approach that the possibility of expulsion in relation to HIV/ AIDS only, in the context of Article 6(1)(c) of Chapter 105, violates the principle of equality’.⁷⁰ It is worth noting that with regard to the protection of the environment —which is obviously inextricably linked to the protection of public health— the current case law restricts, possibly excessively, the concept of legitimate interest to individuals, associations, and organisations, acknowledging, as a

⁶⁶ It is self-evident that the legislative arsenal also incorporates the specific legislation that has been enacted for the protection of public health within the entire scope of economic and social activity (including the Food (Control and Sale) Law of 1996 (‘Ο περί Τροφίμων (Έλεγχος και Πώληση) Νόμος του 1996 (N. 54(I)/1996’), the Care and Treatment of Drug Addicts Law of 1992 (‘Ο περί Περίθαλψης και Μεταχείρισης Τοξικομανών Νόμος του 1992 (57(I)/1992’), etc.

⁶⁷ The General Health System Law of 2001 (‘Ο Περί Γενικού Συστήματος Υγείας Νόμος του 2001 (N. 89(I)/2001’)

⁶⁸ *Aggeli Christos v. Andrea Vorka*, Appl. no 12133 (26 June 2007) 1 ΑΑΔ 761 (in Greek).

⁶⁹ *Goris Trading Ltd & Ors v Health Services*, (1996) 2 ΑΑΔ 88 (in Greek). See also *Milk industry Zita LTD v. Health ministry*, etc. 1274/2011 and 45/2012, 27/3/2019 (in Greek).

⁷⁰ *Leonie Marlyse Yombia Ngassam v. Cyprus Republic*, Case. no 493/2010 (Supreme Court of Cyprus, 20 August 2010) (in Greek).

general rule, the possibility of appealing to the local authorities on the grounds that the action brought is an inherent element of the nature of their mission.⁷¹

We therefore observe that, in the domestic legal order, the right to health is seen by the legislator not so much as an independent individual right but rather as a positive obligation of the State. The protection of health as an individual right is based on the provision of Article 7 par. 1 of the Constitution but also on the interpretative approaches of the ECtHR. With regard to the protection of public health, i.e. the creation of a safe subsistence environment (e.g. appropriate living conditions, maintenance of physical and mental health, etc.), the grid of established rules of law is judged, to a large extent analogous to other EU Member States, at least until the advent of the pandemic which, as an unprecedented event, pushes the national legislator to react immediately and effectively.

The Legal Approach to the Health Crisis

Within a few days, the legislator was called upon to review and restructure traditional public health policies; the social right to health has now turned into a pressing objective. This development is primarily due to the easy transmission of the virus as well as the complications it causes (COVID-19 has increased mortality compared to the common flu). The epidemiological data suggests a dramatic increase in the number of people in need of health care. No State has enough hospital beds and medical staff to cope with the number of patients, which was the unfortunate case especially in Italy, Spain, France, and the UK. The interruption of the transmission link of the virus requires the adoption of measures of social distancing or simply of social isolation which, however, make it impossible to exercise certain 'self-evident' individual and social rights to date. Of course, many democratic constitutions provide for the implementation of the state of emergency, locally or nationwide, suspending the application of the constitutional provisions and restricting freedoms for a limited period.⁷² In a brief throwback to the ancient times, these exceptional

⁷¹ See *Koinotita Pirgon v. Republic*, (1991) 4 A.A.Δ. 3498 (in Greek); *Republic v. Council of Geriou*, (1998) 3 A.A.Δ. , 210, 219 (in Greek); *Friends of Akamas & Ors v. Republic*, (1998) 4 A.A.Δ. 767 (in Greek).

⁷² E.g. French Constitution (Art. 16), Portuguese Constitution (Art. 138), Spanish Constitution (Art. 55 & 116), Greek Constitution (Art. 48), and Cypriot Constitution (Art. 183). Regarding the specificity of the Constitution of Cyprus, see also Achilles C Emilianides, Christos Papastylianos, Costas Stratilatis, *The Republic of Cyprus and the Law of Necessity (Η Κυπριακή Δημοκρατία και το Δίκαιο της Ανάγκης)* (Athina-Thessaloniki: Sakkoulas, 2016) 124-177 (in Greek).

situations originate in Rome, in the implementation of the legal regulation *salus populi suprema lex esto*.

The advent of the pandemic brought about situations of an asymmetric threat, ora peculiar state of siege, without, however, any internal or external (material) danger.⁷³ It brought back terms which were forgotten in textbooks of medieval history (quarantine, mass deaths) to everyday vocabulary and cast doubt over the unimpeded exercise of many fundamental rights. It should be noted, of course, that, apart from the obvious importance for legal science, the importance of respecting or proportionally restricting human rights as an added value to public health interventions is also reflected in the official positions of WHO, according to which health is not only a foundation but also a basic prerequisite for any form of economic and social development.⁷⁴ Consequently, the implemented public health policies need to be based on good practice, which not only consists in the need for evidence-based public health data, but also in the formulation of specific regulatory principles and values on which full justification of any discrimination and the sustainability of actions in the real world is achieved by taking into account cultural, social, political and material conditions and constraints.⁷⁵

In the context of protective measures and the delegated decrees adopted, extensive restrictions on fundamental rights aimed at the effective protection of public health have taken place. For illustrative purposes only, financial and professional freedom was restricted by a temporary ban on the operation of most shops and service companies,⁷⁶ the freedom of assembly was restricted by a temporary ban on public outdoor gatherings,⁷⁷ free movement was restricted by both a temporary

⁷³ For the state of siege according to Article 48 of the Greek Constitution see Stylianos I. Koutnatzis, in Filippou K. Spyropoulos, Xenofon Contiades, Charalambos Anthopoulos (eds), *Constitution Interpretation by Article (Σύνταγμα: Κατ'άρθρο Ερμηνεία)* (Athens-Thessaloniki: Sakkoulas, 2017) 947-959 (in Greek).

⁷⁴ WHO Regional Office for Europe 1998, *The Solid Facts* (WHO, Copenhagen, 2003).

⁷⁵ Tina Garani-Papadatou, Venetia Velonaki, 'Human Rights and Infectious Diseases' (Ανθρώπινα Δικαιώματα και Λοιμώδη Νοσήματα) (2015) 66 ΔτΑ 791-819.

⁷⁶ 'Special Plan for the Complete Suspension of the Company's Operations as Well as for the Terms, Conditions and the Method of Calculation for the Provision of Special Unemployment Benefit' Decision no 4 of 2020 (KPD 130/2020) ('Ειδικό Σχέδιο Πλήρους Αναστολής των Εργασιών της Επιχείρησης καθώς και για τους όρους, προϋποθέσεις και τον τρόπο υπολογισμού για την παροχή Ειδικού Ανεργιακού Επιδόματος'), available at <https://www.coronavirus.mlsi.gov.cy/pliris> (last accessed 21 June 2021) (in Greek).

⁷⁷ Under ECHR jurisprudence, the right to assembly may be restricted for reasons related to the protection of public health. On that matter see *Cisse v. France*, Appl. no 51346/99 (ECtHR, 9 April 2002)

imposition of the traffic-restriction measure nationwide⁷⁸ and a ban on entry into the Republic,⁷⁹ while religious freedom was also restricted by a temporary ban on performing all kinds of services and rituals in all places of religious worship.⁸⁰ The administration of justice did not remain unaffected either.⁸¹ So far, vaccination of the population remains optional, although the political leadership, according to its statement,⁸² would like to make it mandatory. On this issue, the ECtHR in a recent decision⁸³ gives a clear –though not unconditional– message in favour of the possibility of imposing appropriate public-health protection measures to tackle the COVID-19 pandemic, if deemed necessary. The Court held that, in so far as vaccination aims to protect individual and public health and the rights of third parties,

paras 51-52: ‘However, the Court notes that even though it was peaceful and did not in itself entail any disturbance of public order or prevent churchgoers from attending services, after two months the continued occupation of the church by illegal immigrants, including the applicant, had developed into a situation – described in a report drawn up by a bailiff on the instructions of the Commissioner of Police – in which the hunger-strikers’ health had deteriorated and sanitary conditions become wholly inadequate. In these circumstances, the Court accepts that restrictions on the exercise of the applicant’s right to assembly may have become necessary’.

⁷⁸ Setting out measures to prevent the spread of coronavirus COVID 19 Decree (No. 9) of 2020 (‘ΚΔΠ 117/2020, Το περί Λοιμοκαθάρσεως (Καθορισμός Μέτρων για Παρεμπόδιση της Εξάπλωσης του Κορωνοϊού COVID-19 Διάταγμα (Αρ. 9) του 2020, Ε.Ε. Παρ.ΙΙΙ(1), Αρ. 5225, Σελ. 419, 23/3/2020’), available at http://www.cylaw.org/KDP/data/2020_1_117.pdf (last accessed 21 June 2021) (in Greek).

⁷⁹ *Patsalidi v. Republic via the Minister of Health*, Case no. 301/2020 (16 April 2020) (in Greek).

⁸⁰ The first measures to be announced allowed the presence of a number of believers, who, according to a circular issued by the Archbishop, amounted to 10. However, in view of the mass attendance of believers for the celebration of Easter, the government closed the Churches as a measure against the spread of the coronavirus. See Spyridon Vlahopoulos, ‘Religious Freedom and the Protection of Health’ (‘Θρησκευτική Ελευθερία και Προστασία της Υγείας’ (*I Kathimerini*, 21 March 2020), available at <https://www.kathimerini.gr/politics/1070269/thriskeytiki-eleytheria-kai-prostasia-tis-ygeias/> (last accessed 21 June 2021) (in Greek).

⁸¹ In accordance with the Supreme Court (Judiciary’s Issuance of Privileged Order) (Amending) (No. 1) Procedural Regulation of 2020, the time limits for the registration of any document or other document or application, or the application for a procedural step in general, are suspended due to the coronavirus pandemic, with effect from 16 March 2020; *Chrysanthou v. Chrysanthou*, Appl. D.O.D. 2/2019 (Appellate Family Court, 7 April 2020) (in Greek); *Mavronikola v. Xanthis*, Appeal no 8/2018 (Appellate Family Court, 14 April 2020) (in Greek).

⁸² Statement of the Minister of Health, Constantinou Ioannou, on 26 June 2020, interview on Ant1 TV, available at <https://www.youtube.com/watch?v=wyr2pGhxhFY> (last accessed 21 June 2021) (in Greek).

⁸³ *Vavrička and Others v. the Czech Republic* Appl. nos 47621/13 and 5 others (ECtHR, 8 April 2021); *Solomakhin v. Ukraine*, Appl. no 24429/03 (ECtHR, 15 March 2012) paras 35-36; *Jehovah’s Witnesses of Moscow & Ors v. Russia*, Appl. no 302/02 (ECtHR, 10 June 2010) para 136. See also Alberto Giubilini, Julian Savulescu, Dominic Wilkinson, ‘COVID-19 Vaccine: Vaccinate the Young to Protect the Old?’ (26 June 2020) 7(1) *Journal of Law and the Biosciences*..

such as individuals who cannot be vaccinated for medical reasons and who are in a state of constant danger, collective immunity (herd immunity) should be achieved. As for the rest of the population, as the Court points out, there is a debt of demonstration of social solidarity through compulsory vaccination. Similarly, it should not be overlooked that Articles 2 and 8 impose a positive obligation on the State to protect the life and health of its citizens. In general terms, the measures adopted in Cyprus in the struggle against the pandemic could not differ significantly from the rest of the EU Member States. The only measure for which there were strong objections⁸⁴ regarding its compatibility with Article 14 of the Constitution⁸⁵ concerned the decision to allow entry to the Republic of Cyprus only to those who present a medical certificate for coronavirus from an approved, accredited public-health organisation or laboratory. Properly interpreted, however, Article 14 of the Constitution intends to prohibit the application of either deportation/exile or entry into the Republic to make it clear that the treatment reserved for the citizens of the Republic is not permitted, for better or worse, to foreigners in accordance with the law of each State. It is not conceivable to extend Article 14 of the Constitution to issues other than those related to exile or deportation.⁸⁶ The restriction of entry to Cyprus is a purely administrative measure which can be annulled in court and not a government decision, as is incorrectly reflected in current case law.⁸⁷

The extent of State intervention that is allowed by each political and constitutional culture is reflected in the way in which different countries, such as the UK, France, the US, Spain, Sweden, Greece, and Cyprus,⁸⁸ reacted to the health crisis.

⁸⁴ Dimitris Lohias, 'Unconstitutional Measures Beyond Any Reasonable Doubt' ('Πέραν Πάσης Λογικής Αμφιβολίας Αντισυνταγματικά τα Μέτρα') (17 March 2020), available at <https://dikaiosyni.com/katigories/arhra/peran-pasis-logikis-amfivoliis-antisynagmatika-ta-metra/> (last accessed 21 June 2021) (in Greek).

⁸⁵ Article 14 of the Cypriot Constitution: No citizen shall be banished or excluded from the Republic under any circumstances.

⁸⁶ On that matter see Achilles C. Emilianides, 'Does the Requirement to Present a Medical Certificate at the Airport Violate the Constitution?' ('Παραβιάζει το Σύνταγμα η Απαίτηση για Προσκόμιση Ιατρικού Πιστοποιητικού στο Αεροδρόμιο;') (16 March 2020), available at <https://dikaiosyni.com/katigories/arhra/paraviazei-tosyntagma-i-apaitisi-gia-proskomisi-iatrikou-pistopoiitiku-sto-aerodromio/> (last accessed 21 June 2021) (in Greek).

⁸⁷ *Patsalidi v. Republic of Cyprus* (no 76).

⁸⁸ Regarding the constitutionality of the requirement to present a medical certificate to enter the Republic see Achilles C. Emilianides, 'The Application of Article 14 of the Constitution' ('Η Εφαρμογή του Άρθρου 14 του Συντάγματος'), available at <https://dikaiosyni.com/katigories/arhra/i-efarmogi-tou-arthrou-14-tou-syntagmatos/> (last accessed 21 June 2021) (in Greek); *Ibid.* 'The Constitution is Violated by the Requirement of Submission of a Medical Certificate at the airport?' ('Παραβιάζει το

Also, the role and functions of the welfare State are inevitably redefined within the conditions of a pandemic, as is the concept of borders. A return to ‘normality’ requires careful weighing of health data on the one hand and, on the other, the acknowledgment that it is not essentially determined by the special characteristics and capacity of the State mechanism.⁸⁹ Moreover, the constitutionality of restrictive measures is determined by their effectiveness. The restriction is required to bear fruit, namely, to be socially beneficial to be considered constitutionally and socially tolerable. During the first lockdown, there was a general international ignorance and fear about the virus, so the lockdown itself was rightly considered the most appropriate and proportional precaution. Over time, however, the predictability of the State mechanism should increase to become more effective, precisely with the aim to prevent the extension of restrictions on individual freedoms. In this light, the third lockdown recently implemented in Cyprus (in May 2021) was considered by both lawyers and the Bar Association itself to be ‘manifestly unconstitutional’. Despite the exaggerated objections, in some respects, to the constitutionality of the restrictions, the lack of a clear and substantiated reasoning for the impossibility of finding another milder measure raises serious questions of violation of the principle of proportionality.⁹⁰ One of the ways in which the courts could ensure the due process rights of those affected by quarantine laws is to make risk assessments on a case-by-case basis. Individualised risk assessments avoid decisions made under a blanket rule or generalisation about a class of people.

The right to health plays a leading role in both its individual and social aspects. The unprecedented health crisis we are experiencing as a human race has reminded us that fundamental rights do not enjoy absolute protection and enforcement *per mare per terra*. In such a case, restrictive measures aiming to address the health risk may go beyond the golden rule of ‘practical harmonisation’ among the conflicting constitutional rights and occasionally give absolute or near-absolute priority to the protection of the collective right to health, when the ‘normal’ or unimpeded

Σύνταγμα η αιτίαση για προσκόμιση ιατρικού πιστοποιητικού στο αεροδρόμιο;’), available at <https://dikaioyni.com/katigories/arthra/paraviazei-tosyntagma-i-apaitisi-gia-proskomisi-iatrikou-pistopoiitikon-sto-aerodromio/> (last accessed 21 June 2021) (in Greek).

⁸⁹ For Cyprus, the main indicators that contribute to decision-making but are not binding are three: 1) the disease transmission rate, i.e. the true estimated reproductive number of SARS-CoV-2 must be below 1 $R(t) < 1$, 2) the daily number of positive diagnoses of COVID-19 should be less than 5/1000, and 3) the number of patients in ICU should not exceed 14.

⁹⁰ See also Hrefna Dögg Gunnarsdóttir et al., ‘Applying the Proportionality Principle to COVID-19 Antibody Testing’ (January-June 2020) 7(1) *Journal of Law and the Biosciences*.

exercise of certain individual rights is a risk factor. This possibility is included, after all, in the very principle of proportionality that inspires the ECHR law⁹¹, which, when weighing up the assets (proportionality in the narrow sense), sets the formal rule that the greater the legislator's intervention in a fundamental right, the more important the constitutional asset for the sake of which the restriction of the right is established.⁹² Is there anything more important than protecting human life?

In the inevitable⁹³ conflict of rights, the protection of public health serves as the legal basis for the imposition of restrictions, as individual fundamental rights recede in the name of safeguarding public health. The discussion on the mandatory nature of vaccines was a preamble of the urgent dilemmas of the pandemic. Is it legally tolerable to 'exploit' the concept of herd immunity created by others so that parents do not vaccinate their children? Can freedom be exercised by ignoring the vulnerable who cannot be vaccinated? The outcome of the pandemic may allow for a review of the weighing up process⁹⁴ and the acceptable limits set regarding the abuse of the exercise of individual rights that affect the safeguarding of public health.

Conclusion

The advent of the pandemic motivated the legislator to adopt particularly restrictive—for individual freedoms—measures, certainly hoping that those implemented would be of a temporary nature. Undoubtedly, there is a violent transition from

⁹¹ Robert Alexy, 'The Construction of Constitutional Rights' (2010) 4(1) *Law and Ethics of Human Rights* 21-32.; Timothy Endicott, 'Proportionality and Incommensurability' (16 February 2013) 40/2012 *Oxford Legal Research Paper*; Stavros Tsakyrakis, 'Proportionality: An Assault on Human Rights?' (September 2008) *Jean Monnet Working Paper*.

⁹² Charalambos Anthopoulos, 'Pandemic, the Right to Health and the Duty of Solidarity' ('Πανδημία, Δικαίωμα στην Υγεία και Καθήκον Αλληλεγγύης') (2020) 1 *Administrative Law Journal*, (Athens-Thessaloniki: Sakkoulas) 28-34 (in Greek).

⁹³ Giannis Tasopoulos, "Athenians" and "Spartans": The Shield of Rights in the Time of the Pandemic and the Restrictions on Movement' ("Αθηναίοι" και "Σπαρτιάτες": Η Ασπίδα των Δικαιωμάτων στον Καιρό της Πανδημίας και των Περιορισμών της Κίνησης') (2020) 1 *Administrative Law Journal* (Athens-Thessaloniki: Sakkoulas) 35-45 (in Greek): 'In the face of insecurity and skepticism about what it means to have individual rights enshrined in the Constitution, some are reacting as "Spartans" of rights. They are defending the irreconcilable legal-political position for inviolable power and application of rights. For them, the shield of rights exists to offer absolute protection. As military defenders of the rights of Thermopylae, they are adamant and militant against state restrictions on freedoms and even prefer to be defeated in a conflict of rights with a much stronger adversary, who advises them rather than accepting the decline of their principles and weighting of rights'.

⁹⁴ Contiades, Fotiadou (no 18).

the welfare State to the State of prevention, which is reflected in the tendency to turn traditional legal certainty into security of legal assets (with an obvious emphasis on public health). The prevention State, like the welfare State, distorts the constitutional model of law in view of the need to regulate complex and uncertain situations with increased liquidity and variability. The legislator is called upon to respond to ever-changing circumstances which make such work substantially more difficult. For this reason, the elements that compose the concept of legal certainty (duration, clarity, publicity and formality of the law) recede, while, at the same time, the discretion of the public administration is strengthened, and the concept of public interest is expanded.⁹⁵ The functioning of the preventive State implies new or successive restrictions on the exercise of individual rights. As Gross very accurately pointed out, the executive power often confronted with the management of sudden crises does not attach much importance to the requirements of the Constitution when taking emergency measures.⁹⁶ Besides, up to a point, the strictness or mildness of the measures reflects the political/ideological philosophy of the respective government.

The greater and more extensive the risk to the health of citizens (safety), the more intense the duty of the State to minimise it through restrictions on freedoms (e.g. freedom of movement), if this is indicated by epidemiologists as absolutely necessary. In the case of Cyprus, the measures adopted during the pandemic outbreak (March/May) were strict, but as evidenced by the overall course of contagion and the limited number of deaths, they were absolutely necessary. Does health-care policy have any limits to the restriction of individual freedoms? The answer to that question is not obvious. The necessity for the restrictions is self-evident, while their intensity in combination with their duration creates skepticism and doubts, especially when it comes to the reasoning and proportionality of the measures. The corrupting cycle of the relaxation and tightening of measures raises concerns about the adequacy and effectiveness of health policies, as well as reasonable doubts as to the compatibility of the measures with the requirements of the Constitution and, particularly so, with the protected freedoms. As these public-health measures are aimed at the protection of health, a social right, but are, nevertheless, very intrusive, it seems natural to worry chiefly about their impact on civil liberties. These

⁹⁵ On this issue, see Xenophon Paparrigopoulos, 'Rule of Law: Justice or Arbitrariness?' ('Κράτος Δικαίου: Δικαιοκρατία ή Νομοκρατία;') in *Rule of Law* (Athens-Thessaloniki: Sakkoulas, 2011) 59 (in Greek).

⁹⁶ Oren Gross, 'Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?' (2003) 112(5) *Yale Law Journal* 1011-1028.

are, after all, the most obviously and directly at risk even from well-meaning governments, let alone from less well-meaning ones in an age of democratic decline.⁹⁷ In fine, despite the objections expressed, it could hardly be argued that in Cyprus the absolutely-necessary measure has been abused nor, of course, is this documented in case law.

In comparison, the measures taken by the country did not differ significantly from the corresponding measures taken by other EU countries. At the level of institutional control, the intervention of the independent administrative authorities regarding the proportionality of the applied measures in cases where the protection of life is not directly affected, could certainly be more intense and substantial.⁹⁸ Their observed inaction may be due both to the sudden reversal of normality and, of course, their reluctance to oppose the competent public and private bodies.⁹⁹ This aspect is particularly important because the justification for the creation of independent administrative authorities lies in the control of the executive power. Possible inaction or lack of effectiveness leads to a degradation of the rule of law itself, which, we must not forget, is strengthened by self-control mechanisms as well.

What is certain, however, is that we are not facing the revival of a police State or a tyrant State, which, on the occasion of the advent of the health crisis, takes liberties away and imposes its will on citizens in an authoritarian way. It is the increased transmissibility of the virus which inhibits the seamless exercise of indi-

⁹⁷ Octávio Luiz Motta Ferraz, 'Covid-19 and Inequality: The Importance of Social Rights' (2021) 32(1) *King's Law Journal* 109-121.

⁹⁸ At EU level, see the Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak, by European Data Protection Board, adopted on 21 April 2020, available at https://edpb.europa.eu/sites/default/files/files/file1/edpb_guidelines_20200420_contact_tracing_covid_with_annex_en.pdf (last accessed 21 June 2021).

⁹⁹ For example, in the 'Announcement Installation and Operation of Thermocameras and other applications in places accessible to the public/ employers' ('Εγκατάσταση και Λειτουργία Θερμοκαμερών και άλλων εφαρμογών σε χώρους που έχει πρόσβαση το κοινό/ εργοδοτούμενοι') (24 April 2020), available at <http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/All/798C8B6809EBDC87C2258554004137CB?OpenDocument> (last accessed 21 June 2021) (in Greek) the Data Protection Commissioner avoids giving specific instructions but rather explains that 'in any case, in the following general wording: the use of applications and measures should have a legal basis. The use of applications and measures, which involve the processing of special categories of personal data, such as health data, is permitted only if the Principles of Purpose Restriction and Data Minimization are met and the provisions of Article 9(2) of the General Data Protection Regulation (GCPD), which exceptionally allow the processing of such data'. The Commissioner for Administration and the Protection of Human Rights made only one intervention/update over the course of the quarantine regarding the measures taken to prevent the spread of COVID-19 in areas where people are being deprived of their liberty or are being restricted.

vidual rights. A spontaneous handshake, a momentary lack of caution in observing health measures, or an individual, antisocial behaviour can prove fatal. The coordinated State is called upon to curb behaviour that, until recently, was inviolable by the law (e.g. the number of people who could visit our home). The pandemic highlights on an international scale that the protection of health and therefore of life in peacetime is the most important benefit; the synonym of public interest.¹⁰⁰

In this context, the Republic of Cyprus undoubtedly guarantees the rule of law, and the relevant mechanisms (administrative, political, and judicial) are called upon to cope with an unprecedented (at least for the 21st century) health crisis management. Only then does the coordinated State have an adequate constitutional and institutional arsenal at its disposal to be able to react immediately to unforeseen circumstances, without—at least intentionally—violating individual rights.

References

- Alavanos P., 'The Handshake Lost in the Pandemic: A Journey from History to Law', ('Η Χειραψία Χαμένη στην Πανδημία: Μια Διαδρομή από την Ιστορία ως το Δίκαιο') (2020) 1 *Administrative Law Journal*, (Athens-Thessaloniki, Sakkoulas) 94-99 (in Greek).
- Alexy R., 'The Construction of Constitutional Rights' (2010) 4(1) *Law and Ethics of Human Rights* 21-32.
- Anthopoulos C., 'Pandemic, the Right to Health and the Duty of Solidarity' ('Πανδημία, Δικαίωμα στην Υγεία και Καθήκον Αλληλεγγύης') (2020) 1 *Administrative Law Journal*, (Athens-Thessaloniki: Sakkoulas) 28-34 (in Greek).
- Bagley N., 'Is Obamacare Really Unconstitutional?' *The New England Journal of Medicine (NJEM)* (Massachusetts Medical Society, 2020).
- Bueno De Mesquita J., 'The Universal Periodic Review: A Valuable New Procedure for the Right to Health?' (December 2019) 21(2) *Harvard School of Public Health* 263-277.
- Chrysogonos K., Vlachopoulos S., *Individual and Social Rights (Ατομικά και Κοινωνικά Δικαιώματα)* (Nomiki Vivliothiki, 2017) 268-575 (in Greek).
- Clarke L., 'Abortion: A Rights Issue?' in R. Lee, D. Morgan (eds), *Birthrights: Law and Ethics at the Beginnings of Life* (London: Routledge, 1989).

¹⁰⁰ Evangelos Venizelos, 'Pandemic, Fundamental Rights and Democracy - The Greek Example' (28 April 2020) *COVID-DEM*, available at <https://ssrn.com/abstract=3626248> (last accessed 21 June 2021).

- Contiades X., Fotiadou A., ‘Pandemic, state of prevention and resilience of the Constitution. State and Constitution in the face of the health crisis’ (‘Πανδημία, κράτος πρόληψης και ανθεκτικότητα του Συντάγματος. Κράτος και Σύνταγμα μπροστά στην υγειονομική κρίση’) (2020) 1 *Administrative Law Journal* (Athens-Thessaloniki: Sakkoulas, 2020) 17-27 (in Greek).
- Crewe M., ‘The HIV/AIDS Epidemic and Human Rights Responses’ in A. Clapham et al. (eds), *Realizing the Right to Health* (Rüffer & Rub, 2009).
- Donnelly J., *International Human Rights* (Boulder, CO: Westview Press, (1993).
- Emilianides A. C., *Constitutional Law in Cyprus*, (Wolters Kluwer Law & Business, 2019).
- Emilianides A. C., ‘Does the Requirement to Present a Medical Certificate at the Airport Violate the Constitution?’ (‘Παραβιάζει το Σύνταγμα η Απαίτηση για Προσκόμιση Ιατρικού Πιστοποιητικού στο Αεροδρόμιο;’) (16 March 2020), available at: <https://dikaiosyni.com/katigories/arthra/paraviazei-tosyntagma-i-apaitisi-gia-proskomisi-iatrikou-pistopoiitiku-sto-aerodromio/> (last accessed 21 June 2021) (in Greek).
- Emilianides A. C., ‘The Application of Article 14 of the Constitution’ (‘Η Εφαρμογή του Άρθρου 14 του Συντάγματος’), available at <https://dikaiosyni.com/katigories/arthra/i-efarmogi-tou-arthrou-14-tou-syntagmatos/> (last accessed 21 June 2021) (in Greek).
- Endicott, T. ‘Proportionality and Incommensurability’ (16 February 2013) 40/2012 *Oxford Legal Research Paper*.
- Forsythe D. P., *Human Rights in International Relations* (Cambridge University Press, 2006).
- Gunnarsdóttir, H., et al., ‘Applying the Proportionality Principle to COVID-19 Antibody Testing’ (January-June 2020) 7(1) *Journal of Law and the Biosciences*.
- Ferraz O. L-M., ‘The Politics of the Right to Health’ in *Health as a Human Right: The Politics and Judicialisation of Health in Brazil* (Cambridge University Press, 2020) 23-100.
- Ferraz O. L-M., ‘Covid-19 and Inequality: The Importance of Social Rights’ (2021) 32(1) *King’s Law Journal* 109-121.
- Garani–Papadatou T., Velonaki V., ‘Human Rights and Infectious Diseases’ (‘Ανθρώπινα Δικαιώματα και Λοιμώδη Νοσήματα’) (2015) 66 *ΔΤΑ791-819* (in Greek).

- Goodin R., 'Reasons for Reason-Giving: The Obamacare Debates' (December 2018) 43(6) *Journal of Health Politics, Policy and Law* 991-1012.
- Gross O., 'Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?' (2003) 112(5) *Yale Law Journal* 1011-1028.
- Gunnarsdóttir H. D. et al., 'Applying the Proportionality Principle to COVID-19 Antibody Testing' (January-June 2020) 7(1) *Journal of Law and the Biosciences*.
- Harris J., *The Value of Life: An Introduction to Medical Ethics* (London: Routledge, 1985).
- Hervey T. K., McHale J. V., 'Rights: Health Rights as Human Rights' in *European Union Health Law: Themes and Implications* (Cambridge University Press, 2015) 156-183.
- Huxtable, R., 'Euthanasia, Ethics and the Law: From Conflict to Compromise', (London: Routledge, 2007).
- Katrougkalos G., 'The Problem of the Protection of Social Rights in the European Area' ('Η Προβληματική της Προστασίας των Κοινωνικών Δικαιωμάτων στον Ευρωπαϊκό Χώρο') in Aristovoulos Manesis *Constitutional Theory and Practice 1980-2000* (Athens-Thessaloniki: Sakoulas, 2007) (in Greek). Keown J., *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation* (Cambridge University Press, 2002).
- Kinney E., Clark B., 'Provisions for Health and Health Care in the Constitutions of the Countries of the World' (2004) 37(2) *Cornell International Law Journal* 285-355.
- Kirby M., 'The Right to Health Fifty Years on: Still Skeptical?' (1999) 4(1) *Health and Human Rights* 5-25.
- Kolodziejczyk M., 'Technology in the Service of Coronavirus Containment: Potential Threats to Human Rights Protection' (2020) 18(2) *Journal of International Relations* 156-181.
- Kremalis K., *The Law of Health (Το Δίκαιο της Υγείας)* (Athens: Nomiki Vivliothiki, 2011) (in Greek).
- Last J. M. (ed.), *A Dictionary of Epidemiology* (4th edn, New York: Oxford University Press, 2001).
- Laurie G., Harmon S., Dove E., *Mason & McCall Smith's Law and Medical Ethics* (11th edn, Oxford University Press, 2019).

- Lewis P., *Assisted Dying and Legal Change* (Oxford University Press, 2007) 28-65.
- MacNaughton G., McGill M., ‘The Challenge of Interdisciplinarity in Operationalizing the Right to Health’ (December 2019) 21(2) *Health and Human Rights Journal* 251-262.
- Mallapaty, S., ‘How Deadly is the Coronavirus? Scientists Are Close to an Answer’ (*Nature*, 16 June 2020), available at <https://www.nature.com/articles/d41586-020-01738-2> (last accessed 20 June 2021)
- Manitakis A., ‘The Pandemic Between Law and Morality With Life as a Constitutional Value’ (‘Η Πανδημία Ανάμεσα στο Δίκαιο και στην Ηθική, με την Ζωή ως Συνταγματική Αξία’) (May 2020), available at <https://www.constitutionalism.gr/2020-05-manitakis-pandimia-zoi-syntagmatiki-axia/www.constitutionalism.gr> (last accessed 20 June 2021) (in Greek).
- Mann J. M. et al., ‘Health and Human rights’ (1994) 1(1) *Health and Human Rights Journal* 7-25.
- Marguet L., ‘Handshake with a person of the opposite sex, a new Republican value? Regarding the decision of the Council of State of April 11, 2018 (n ° 412462)’ (‘Poignée de main avec une personne de sexe opposé, une nouvelle valeur républicaine? À propos de l’arrêt du Conseil d’Etat du 11 avril 2018 (n° 412462)’), *La Revue des Droits de l’Homme*, n° 17/2020, available at <https://journals.openedition.org/revdh/8225?lang=fr#tocfrom1n1> (last accessed 21 June 2021) (in French).
- Nikolopoulos, G., ‘COVID 19 - Restricting fundamental rights through unconstitutional measures’ (‘COVID 19 – Περιορισμός θεμελιωδών δικαιωμάτων μέσω αντισυνταγματικών μέτρων’), available at <https://www.constitutionalism.gr/2020-04-16-nikolopoulos-pnn-arthro48s/> (last accessed 20 June 2021) (in Greek).
- Norman D., ‘Equity and Population Health: Toward a Broader Bioethics Agenda’ (2006) (36)4 *Hastings Center Report* 22-35.
- Norman D., *Just Health: Meeting Health Needs Fairly* (Cambridge: Cambridge University Press, 2008).
- Paparrigopoulos X., ‘Rule of Law: Justice or Arbitrariness?’ (‘Κράτος Δικαίου: Δικαιοκρατία ή Νομοκρατία;’) in *Rule of Law* (Athens-Thessaloniki: Sakkoulas, 2011) (in Greek). Paparrigopoulou P., ‘Interpretation of Article 5 of the Constitution’ in Filippos. Spyropoulos et al. (eds), *Article by Article Interpretation*

- of the Greek Constitution (Το Σύνταγμα: Κατ' Άρθρο Ερμηνεία)* (Athens-Thessaloniki: Sakkoulas, 2017) (in Greek).
- Paraskeva K., *Cypriot Constitutional Law, Fundamental Rights and Freedoms (Κυπριακό Συνταγματικό Δίκαιο, Θεμελιώδη Δικαιώματα και Ελευθερίες)* (Nomiki Vivliothiki, 2015) 114-124 (in Greek).
- Paula J., *The Right to Health: A Resource Manual for NGOs* (Leiden: Brill/ Nijhoff, 2010).
- Putman E., 'The refusal to shake the hand of a prefectural agent and an elected official for religious reasons constitutes a lack of assimilation into the French community' ('Le refus de serrer la main d'un agent préfectoral et d'un élu pour motif religieux constitue un défaut d'assimilation à la communauté française') (2018) 6 *Revue juridique Personnes et famille* 625-647 (in French).
- Rivkin Jr D. B., Stimson C., 'A Constitutional Guide to Emergency Powers', (*The Wall Street Journal*, 19 March 2020), available at www.wsj.com/articles/a-constitutional-guide-to-emergency-powers-11584659429 (last accessed 21 June 2021).
- Roodenberg, H., *A Cultural History of Gesture* (University of Groningen, 1991), available at: <https://www.rug.nl/research/portal/files/3346048/BremmerH7.pdf> (last accessed 21 June 2021).
- Roukounas, E., *International Protection of Human Rights (Διεθνής Προστασία Ανθρωπίνων Δικαιωμάτων)* (Athens: Estia, 1995) (in Greek). Sotirelis G., Tsaitouridis Ch. (eds), *Social Rights and Welfare State Crisis (Κοινωνικά Δικαιώματα και Κρίση του Κράτους Πρόνοιας)* (Athens: Savvalas, 2007) (in Greek).
- Spiliotopoulos A., 'Guarantees for the Free Choice of Doctor and Patient', (Εγγυήσεις για την ελεύθερη επιλογή ιατρού και ασθενή') (1995) *Applications of Public Law* 130-146 (in Greek).
- Tasopoulos G., '“Athenians” and “Spartans”: The shield of Rights in the Times of the Pandemic and the Restrictions on Movement' ('“Αθηναίοι” και “Σπαρτιάτες”: Η Ασπίδα των Δικαιωμάτων στον Καιρό της Πανδημίας και των Περιορισμών της Κίνησης') (2020) 1 *Administrative Law Journal* (Athens-Thessaloniki: Sakkoulas) (in Greek).
- Tomuschat C., *Human Rights: Between Idealism and Realism* (Oxford University Press, 2003).

- Tornaritis C., 'The Social and Economic Rights under the Law of the Republic of Cyprus' in *Mellanges Bridel* (Lausanne, 1968) 533-556.
- Tsakyraakis S., 'Proportionality: An Assault on Human Rights?' (September 2008) *Jean Monnet Working Paper*.
- Tsatsos D., *Constitutional Law III: Fundamental Rights (Συνταγματικό Δίκαιο Γ', Θεμελιώδη Δικαιώματα)* (Athens-Thessaloniki: Sakkoulas) (in Greek).
- Venizelos E., 'Pandemic, Fundamental Rights and Democracy - The Greek Example' (28 April 2020) *COVID-DEM*, available at: <https://ssrn.com/abstract=3626248> (last accessed 21 June 2021).
- Vincent R. J., *Human Rights and International Relations* (Cambridge University Press, 1986).

The Autonomy of Religious Communities and the Freedom of Worship in the Coronavirus Era: The Example of the Orthodox Church of Cyprus

IOANNIS E. KASTANAS¹

Abstract

The freedom of worship constitutes the quintessence of religious freedom and is also affiliated with the autonomy enjoyed by church organisations. In the times of a pandemic, the freedom of worship is subject to restrictions in accordance with the requirements of the principle of proportionality. This topical version of religious freedom is influenced significantly by the autonomy enjoyed by the different religious denominations in line with the current State, which outlines the relationships between them. In Cyprus, where the homotaxy system applies to the autocephalous Orthodox Church of Cyprus, a remarkable autonomy pursuant to the State and canon law is generally enjoyed. This is evidenced by the management of the restrictive measures imposed on the freedom of worship during the lockdown phase and the period of the gradual easing of the restrictive measures.

Keywords: autonomy, religious freedom, freedom of worship, coronavirus, Orthodox Church of Cyprus

Introduction

The coronavirus pandemic (COVID-19) has indisputably affected every facet of the daily life of modern man and continues to do so. Church life² and the worship of the divine could not be an exception. The conflictual relationship between the freedom of worship and the protection of public health, as well as the effort to harmonise them is a perennial matter which recurs in current affairs from time to time and has been the prime cause of scholarly debates, dissensions, and the respective judicial decisions.³

¹ Postdoctoral Researcher, Adjunct Faculty, School of Law, University of Nicosia.

² Petros Vasiliadis (ed.), *The Church in a Period of Pandemic: Can the Present Pandemic Crisis Become a Meaningful Storm for Renewal in our Churches?*, CEMES 25 (Cemes and Fordham Publications, 2020).

³ The discussion of whether vaccinations should be compulsory or not in the United States (US) led to the famous *Jacobson v. Massachusetts* case law and to the respective decisions based on and aligned

The purpose of the first, more general part of the present study is to investigate the freedom of worship and the autonomy of religious organisations (or communities) as forged over the last six months, when the unprecedented pandemic of the coronavirus emerged and spread in Europe and, consequently, in Cyprus. In the second and more specific part, the conjunction of religious autonomy and the freedom of worship amidst the emergency circumstances of the management of the pandemic will be presented by means of a concrete example: The Orthodox Church of Cyprus. The significance of this perspective lies in the ascertainment of the interactions between the State and the Church in the management of the pandemic and the extent to which they influence and are influenced by the standing system of relationships between the State and the religious communities. Furthermore, the understanding of the way in which the specific religious community manages its autonomy and regulates 'its own matters' in the midst of a pandemic is particularly interesting.

Lastly, a delimitation of a dual nature is necessary. The treatment of an issue currently in progress,⁴ where almost every week, if not every day, new added bits and pieces compose a novel mosaic of information, involves a significant risk, namely that what is written may be superseded by the normative power of reality. Thus, a time limit of examination is set (1 August 2020), when, according to a decree of the competent Minister of Health, Constantinos Ioannou, the use of the protective mask will have been rendered mandatory, inter alia, among people in places of worship under the threat of a fine amounting to 300 EUR in the event of non-compliance.⁵ Furthermore, the matter of permitting the practice of Holy Communion⁶ in times of a pandemic will not be touched upon, not even roughly. This is a self-standing, sensitive issue with highly intense metaphysical references and a radical conflict of interest between the objective researcher and the conscientious believer, which dictates how each person responds.

to it. See Harlan, John Marshall, and Supreme Court of The United States, *Jacobson v Massachusetts* (1905), 197 U.S. 11, 25 S.Ct. 358, 49 L. Ed. 613, 3 Ann. Cas. 765.

⁴ At the same time as writing this paper (end of July 2020), several scientists are expressing fears for the onset of the second wave of the COVID-19 pandemic in the northern hemisphere.

⁵ Cyprus Government Gazette, *Quarantine Law (Ο περί Λοιμοκαθάρσεως Νόμος)* (2020), available at <https://www.pio.gov.cy/coronavirus/diat/55.pdf> (last accessed 4 September 2020) (in Greek).

⁶ Nikolaos Asproulis, Nathaniel Wood (eds), *Tempus Faciendi: Orthodoxy Faced with the Coronavirus Pandemic (Καιρός του Ποιήσαι: η Ορθοδοξία ενόπιον της Πανδημίας του Κορωνοϊού)* (Volos, Ekdotiki Dimitriadis, 2020) (in Greek).

Religious Autonomy and Freedom of Worship in a Pandemic Era

The Autonomy of Religious Communities and the Freedom of Worship as Substantive –albeit Receptive of Restriction– Constituents of Religious Freedom

Religious freedom is one of the first fundamental rights to have been asserted and subsequently enshrined since the 16th century in Europe, and which constitutes a common element among the legal systems of the member countries of the European Union (EU).

Religious freedom comprises the freedom of religious conscience and the freedom of worship. The latter consists in the freedom of each person to manifest their religious beliefs privately and individually on the one hand and in public with the people who espouse the same religious beliefs on the other. Consequently, the right of believers to assemble peacefully to exercise worship in accordance with the more specific ritual prescriptions of their religion is also protected. The Cypriot Constitution protects this right in article 18, while the protective shield of the right is strengthened by the European Convention of Human Rights (ECHR)⁷ and the Charter of Fundamental Rights (CFR) of the EU⁸. Religious worship constitutes the quintessence of religious freedom, as the non-externalisation of religious beliefs renders their protection the letter of the law devoid of the spirit.

As a first-generation right, religious freedom necessitates a claim towards the State to abstain from actions which could be detrimental to the right. At the same time, the obligation to take affirmative measures for the safeguarding of religious freedom is established. Thus, a more specific manifestation of the right of religious freedom, namely religious autonomy, emerges to create an obligation of the State towards the religious community, which is treated as a single organism. Within the framework of the ECtHR, religious autonomy is encountered as the ‘principle of the autonomy of religious organisations’.⁹ The cases of the ECtHR with religious freedom at their core are numerous, while a part of those contain the right of re-

⁷ European Court of Human Rights (ECtHR), *European Convention on Human Rights (ECHR)* (2010), available at https://www.echr.coe.int/documents/convention_eng.pdf (last accessed 4 August 2020), at 11.

⁸ Official Journal of the European Communities, *Charter of Fundamental Rights of the European Union (CFR)* (2000), available at https://www.europarl.europa.eu/charter/pdf/text_en.pdf (last accessed 4 August 2020), at 10.

⁹ ECtHR, *Guide on Article 9 of the European Convention on Human Rights* (2020), available at https://www.echr.coe.int/Documents/Guide_Art_9_ENG.pdf (last accessed 4 August 2020), at 69.

ligious autonomy,¹⁰ which is wider than the narrow self-government of religious communities.

The ECtHR has found that the principles of State neutrality and religious autonomy prohibit State agencies from intervening with decisions on admission and exit, as well as with the criteria which are laid down by the religious communities.¹¹ By the same decisions of the hereinabove Court, it was made clear that the autonomous existence of religious communities is necessary for pluralism in a democratic society; thus, it lies in the very heart of religious freedom.¹²

The result of the analysis of the aforementioned case law was, inter alia, the theory that religious autonomy may sometimes be regarded as being antagonistic to other claims and interests which are also protected by internal and international rules. However, the coercion of a religious community into the admission of new or different religious practices or members against the will of the community cannot be regarded as acceptable. This coercion not only harms the religious community but also interferes with the normal functioning of democracy itself, according to the ECtHR.¹³

The preservation of the autonomy of religious communities is necessary for the fulfilment of individual freedom and personal autonomy of their members. Without the internal instructions provided by the religious communities, an individual is not capable of following the religious way of life. Without the ability of the religious group to determine itself, the personal choice of leading a religious life does not make any sense. The right of the members of the religious community to participate in a religious organisation which functions as an entity and with accordance with a specific internal manner could also be infringed upon. As a social benefit, the autonomy of religious communities constitutes a necessary structural element for actual pluralism, freedom of thought and peaceful coexistence. In conclusion, any case law rooted in the international commitments of the States reflects a well-established model which protects religious autonomy, especially so when decisions on membership and self-determination are involved.

¹⁰ Gerhard Robbers (ed.), *Church Autonomy: A Comparative Survey*, (Frankfurt am Main: Peter Lang, 2001), available at <https://www.iclrs.org/church-autonomy-a-comparative-survey/> (last accessed 4 August 2020).

¹¹ *Sindicatul "Păstorul cel Bun" v Romania*, Appl. no 2330/09 (ECtHR, 9 July 2013), para 137.

¹² *Hasan and Chaush v Bulgaria* Appl. no 30985/96 (ECtHR, October 2000); *Metropolitan Church of Bessarabia & al. v Moldavia* Appl. no 45701/99, (ECtHR, December 2001).

¹³ *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy)* and *Ors v Bulgaria* Appl. no 412/03 and 35677/04 (ECtHR, 22 January 2009) paras 119-120.

At this point, it is worth pausing to reflect on the case law *Fernández Martínez v. Spain* of the ECtHR and the landmark decision on religious autonomy.¹⁴ More specifically, in this decision which is generally concerned with how private life is influenced by the religious community and its internal legislation, the concept of religious autonomy or ‘autonomy of religious communities’ is supplemented by the principle of State neutrality.¹⁵ As far as the autonomy of faith groups is concerned, the ECtHR observed that since those groups constitute organisational structures, the matters strictly related to the organisation of a religious community will have to be subjected not only to Article 9 of the ECHR but also to Article 11 which functions interpretively as to the said autonomy in the present case.¹⁶ Furthermore, the ECtHR focuses on the concept of the internal autonomy of faith groups —also mentioned as the ‘internal autonomy of religious groups’— having as a maxim the rejection of a member’s right upheld by Article 9 in the ECHR to dissent from the religious community on doctrinal or organisational matters, in the sense that, in the event of such a dissension the exercise of the individual right of religious freedom will be achieved by leaving the religious community, as the State is not allowed to intervene for the sake of neutrality.¹⁷ Likewise, the State cannot force a religious community to admit or expel a member or assign a religious duty.¹⁸

Religious autonomy is receptive of restrictions like all rights and their special manifestations are. In the present decision, the limitations are specified on the basis of the actuality or the potentiality of a threat that a religious community receives. The restriction of the rights of its members will have to be in direct relevance to the preservation of the autonomy of the community, which the community will have to prove in conjunction to the *in concreto* factual circumstances, so that it becomes apparent that the risk is genuine and the result, namely the restriction of the rights, is absolutely necessary.¹⁹ In addition, the obligation of faith is a decisive factor for the labour relations inside the religious community. Therefore, the nature of its position and its mission should be taken into account by the State or the religious community in the process of implementing a restriction.²⁰

¹⁴ *Fernández Martínez v Spain* Appl. no 56030/07(ECtHR, June 2014).

¹⁵ *Ibid* 69 (In 127 the term ‘autonomy of the Church’ is also mentioned).

¹⁶ *Ibid* 127.

¹⁷ *Ibid* 128.

¹⁸ *Ibid* 129.

¹⁹ *Ibid* 132.

²⁰ *Ibid* 131.

The Effect of the Coronavirus Pandemic on the Autonomy of Religious Communities: Are we Heading Towards the Formation of a New ‘Topical’ right?

The autonomy of religious communities does not extend to the point of supplanting the State legal order but is included therein and is restricted by its imperatives. Inspired by the example set out by the ECHR, the Cypriot Constitution expressly institutes the restrictions which may be imposed on religious freedom, as well as all the fundamental rights which the legal order establishes as unconditional. The legislative restrictions in fundamental constitutional rights, among which religious freedom is undeniably included, must be imposed on the basis of the principle of proportionality, which also determines the limit for their constitutionality.

More specifically, the permissibility of the restrictions when exercising such a fundamental right is delimited by the appropriateness and the necessity of the adopted measure, as is its proportion to the pursued end. In fact, State intervention into religious freedom, in the present case, must correspond to a pressing social need and, thus, the notion of necessity cannot be perceived as merely ‘useful’ or ‘desirable.’²¹ The principle of proportionality finds its origins in ancient Greece and, more specifically, in the principle of *mesotes*, which goes hand in hand with the concept of *metron ariston*, according to which everything must be done with moderation in its relevant proportions. In its positive formulation²² and in the area of EU law, the first trace of the formal expression of proportionality can be traced back to the 1794 General State Laws for the Prussian States (*Allgemeines Landrecht für die Preussischen Staaten*).²³

²¹ *Svyato-Mykhaylivska Parafiya v Ukraine* Appl. no 77703/01 (ECtHR, 14 June 2007) para 116. Cf. Ernst Hirsch Ballin, Gerhard Van der Schyff, Maarten Stremmer (eds), *Judicial Power: Safeguards and Limits in a Democratic Society-European Yearbook of Constitutional Law 2019* (The Hague: TMC Asser Press, 2020) 329. Both stress relevantly to the stance of the ECHR vis-à-vis the application of the proportionality by the national courts that ‘where a balancing exercise has been undertaken at the national level in conformity with the criteria laid down in the Court’s jurisprudence, the Court has generally indicated that it will not substitute its own assessment for that of the domestic courts, unless there are strong reasons for doing so’.

²² Vasilis Tzemos, ‘Mature Proportionality. The Proportionality of the Restriction of Fundamental Rights as a Rule of Constitutional Law and EU Law which Does not Include Proportionality Stricto Sensu’ (‘Η «Ωριμη» Αναλογικότητα. Η Αναλογικότητα των Περιορισμών των Θεμελιωδών Δικαιωμάτων ως Κανόνας του Συνταγματικού Δικαίου και του Δικαίου της ΕΕ που δεν Περιλαμβάνει την Αναλογικότητα σε Στενή Έννοια’ (2019) 2 *Διοικητική Δίκη* 200 *et seq* (in Greek).

²³ Gino Scaccia, ‘Proportionality and the Balancing of Rights in the Case-law of European Courts’ (2019) 4 *Federalismi.it*.

As it is generally accepted, the principle of proportionality in practice is, perhaps, the most significant principle with which every restriction of a fundamental right must comply. In particular, its application follows three control stages: the restriction is required to be (a) appropriate to cause the pursued result, (b) necessary,²⁴ namely a *sine qua non* condition,²⁵ which means that there do not exist other equally appropriate means for the attainment of the end which is less onerous for the person whose freedom is restricted,²⁶ and (c) proportional, *stricto sensu*, in the sense that the hindrance caused by the restriction of freedom must not outweigh the positive result for the public interest caused by the restriction.²⁷ In this last phase (see item c) there is a place to be found for a privileged application of the interpretive principle of ‘practical concordance’ (praktische Konkordanz), which dictates the synthesis or at least the coexistence between the opposed constitutional interests.²⁸ If mutual relativisation is not possible, then priority must be given to the constitutional good with the most gravity in the concrete case. It is necessary that the assessment techniques be applied in the effort to achieve a balancing between religious freedom and objective ends having constitutional fortification and validity, as is the protection of public health in the case of the emergence and spread

²⁴ Cf. Julian Rivers, ‘Proportionality and Variable Intensity of Review’ (2006) 65(1) *The Cambridge Law Journal* 174. By attempting to conceptualise the term ‘necessary’, Rivers remarks that ‘the test of necessity asks whether the decision, rule or policy limits the relevant right in the last intrusive way compatible with achieving the given level of realization of the legitimate aim. This implies a comparison with alternative hypothetical acts (decisions, rules, policies etc.), which may achieve the same aim to the same degree but with less cost to rights’, 198.

²⁵ T. Jeremy Gunn, ‘Permissible limitations on the Freedom of Religion or Belief’ in John Witte & M. Christian Green (eds), *Religion and Human Rights: An Introduction* (Oxford: Oxford University Press, 2012), 254. Gunn notes characteristically that ‘it is a strong term suggesting that no other option is possible or that the consequences will be dire if the restriction is not imposed’, 261.

²⁶ *Biblical Centre of the Chuvash Republic v. Russia* Appl. no 33203/08 (ECtHR, 12 June 2014), para 58. Cf. Javier Martínez-Torrón, ‘Limitations on Religious Freedom in the Case Law of the European Court of Human Rights’ (2005) 19 *Emory International Law Review* 587.

²⁷ Gerhard Robbers, ‘The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in Germany’ (2005) 19 *Emory International Law Review* 841, 859. Cf. Norman Doe, *Law and Religion in Europe: A Comparative Introduction* (Oxford: Oxford University Press, 2011). In the unit ‘Limitations on the Right to Manifest Religion’, 56 *et seq.*, Doe highlights that ‘as the Spanish Constitutional Court has pointed out, whether a limit on religious freedom is proportionate depends on whether ‘the measures adopted are disproportionate for the defence of the juridical good that has given rise to the restriction’, 62.

²⁸ Cf. Scaccia (no 22) 7, who speaks of a ‘balancing of interests’.

of a pandemic just like the one we have been experiencing lately. Of course, this balancing is not calculable but rather controlled.²⁹

The issue of the harmonisation of religious freedom with the protection of public health is not novel. On the contrary, it is old and is based on the premise that freedom of belief may be absolute, but freedom of action is not.³⁰ On this premise, the US Supreme Court ruled in the famous *Jacobson vs. Massachusetts*³¹ in 1905, where the principle of mandatory vaccination—a case law which was affirmed some years later in 1922 in the ruling of the Texas case of *Zucht vs. King*³²—was introduced. From the case law which has been observed *to this day*³³ and which concerns the restrictions of religious freedom imposed on account of the COVID-19 pandemic, a reference to the jurisprudence which has arisen from the Federal Court of Justice of Germany and the French Council of State is worth making.

In an effort to trial an interim measures procedure, the German federal court issued two cases³⁴ which seek to achieve some balance between the freedom of worship and the protection of public health. The former was issued during lockdown measures while the latter was issued when those restrictive measures were eased. In the first case, the applicant requests the issue of a provisional order involving the annulment of the ruling under number 8B 892/20.N of the Administrative Court of Appeals of Hessen on 7 April 2020 and the suspension of the arrangement of Article 1, par. 5 of the 4th Regulation of the government of the federal State of Hessen pursuant to which assemblies in churches, mosques, synagogues as well as the assemblies of the communities of other denominations are prohibited, until issued otherwise.

²⁹ Christoph Engel, 'Law as a Precondition for Religious Freedom (2011) 6 *MPI Collective Goods Preprint*.

³⁰ James A. Tobey, *Public Health Law* (3rd edn, New York: Commonwealth Fund, 1947) 52.

³¹ *Jacobson v Massachusetts* (no 2).

³² *Zucht v King* (1922), 260 U.S. 174, 43 S. Ct. 24, 67 L. Ed. 194.

³³ 'To this day' refers to the matter of legality of the absolute prohibition of the religious assemblies to deter the dispersion of the virus within the community. A possible invention of a vaccine is certain to multiply appeals to the courts on the grounds of the violation of religious freedom.

³⁴ BVerfG, Decision of the 2nd Chamber of the First Senate (Beschluss der 2. Kammer des Ersten Senats) of 10 April 2020 – 1 BvQ 28/20, paras 1-16, available at https://www.bundesverfassungsgericht.de/e/qk20200410_1bvq002820.html (last accessed 4 August 2020) (in German); BVerfG, Decision of the 2nd Chamber of the First Senate (Beschluss der 2. Kammer des Ersten Senats) of 29 April 2020 - 1 BvQ 44/20, paras 1-19, available at https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/04/qk20200429_1bvq004420.html (last accessed 4 August 2020) (in German).

The applicant was a Christian Catholic who regularly attends Holy Mass. Owing to the aforementioned Regulation, it is not possible for him to participate in a festive liturgy. This applies equally to the weekly attendance of Holy Mass (Feast of the Eucharist) as well as the Holy Week Easter Liturgies. When in conflict with the fundamental right to life and bodily integrity, the complete collapse of the essential right of religious freedom under the weight of the unimpeded collective exercise of religious duties was regarded as disproportionate by the applicant.

With regard to the declarations of the Second Vatican Council³⁵ and the Catechism of the Catholic Church,³⁶ the applicant clearly alleges that, according to the Catholic belief, the collective celebration of the Eucharist is a basic component of faith, the lack of which cannot be substituted by alternative forms of practice of faith such as the broadcasting of the church liturgy on the internet or individual prayer. Therefore, the prohibition of this celebration constitutes an extremely serious interference with the right of religious faith and the freedom of religious beliefs pursuant to Article 4, paragraphs 1 and 2 of the Constitution of the Federal Republic of Germany. This infringement of the said right is reinforced in accordance with the reasonable allegations of the applicant insofar as the prohibition of the Liturgy of the Eucharist extends into the days of Easter, which constitutes the pinnacle of the religious life of Christians.

Vis-à-vis those threats to life and limb, whose protection the State is also obliged to provide by virtue of Article 2, par. 2 of the Constitution of the Federal Republic of Germany, the protected fundamental right of the collective celebration of Divine Worship must, for the time in question, subsist. The German federal court held that the Administrative Court of Essen correctly pointed out that in accordance with the assessment of the Robert Koch Institute at this early stage of the pandemic, the aim has been to decelerate the spread of the highly contagious viral disease by limiting the number of COVID-19 positive cases to a minimum in order to prevent the collapse of the State's health care system and numerous deaths. Thus, the extremely serious interference with religious freedom for the protection of health and life is, for the time in question, acceptable, as the Regulation issued on 17 March 2020—and thus the standing prohibition of assemblies in churches—is temporally restricted until 19 April 2020. This ensures that the regulation will be updated in the

³⁵ Pope Paul VI, 'Dogmatic Constitution on the Church - Lumen Gentium' (Vatican: The Holy See, Rome: 21 November 1964) para 11.

³⁶ Catholic Church, 'The Eucharist – Source and Summit of Ecclesial Life' in *The Catechism of the Catholic Church* (Vatican City: Libreria Editrice Vaticana).

light of new developments regarding the coronavirus pandemic. In this context –as also in any further update of the Regulation– the Court emphatically highlights that a strict review of proportionality in respect of the prohibition of church assemblies must be performed, as well as a review of whether in the light of the new findings (for example with regard to the transmission of the virus or the risk of the health care system overloading) it is possible to sensibly relax the prohibition of the expressions of worship events on strict –if necessary– terms and, possibly, even only at a local level. The second case which the Court was seized of is more complex and interesting and proceeds to reveal subtle judgements on proportionality in the period of the relaxation of the strict restrictive measures, while the arguments of the applicant were based on the principle of the autonomy of his religious community.

The applicant, a devoted Muslim, petitioned before the Supreme Administrative Court pursuant to Article 47, par. 6 of the German Code of Administrative Court Procedure, for the issue of a provisional order permitting him and the members of his religious community to assemble in the mosque in the weeks between 23 April to 23 May 2020 for the Friday prayer, subject to the observance of the prescribed hygiene measures.

To this end, he ensured that the guarantees upon which the shops would be permitted to open to the public would be observed. As for concrete measures, he states that a minimum distance of 1.5 meters will be maintained among the faithful and that the number of participants on the respective Friday prayers will drop to 24; the mosque has a space for 300 people and the members of the local community are known to him. Therefore, he claims he could call the believers individually on separate Friday prayers, thus avoiding the formation of queues in front of the mosque. To guarantee compliance with the safety distance, floor markings will be applied. Upon consultation with the theological authorities, he also received permission to perform more Friday prayers on a given Friday. Prior to the entry into the mosque, a ceremonial washing with soap will take place. Appropriate hygiene spaces will be available in the mosque, while mask protection will be requested from the attendants. Doorknobs and other surfaces will have been disinfected, and other disinfectant products will be at their disposal. Spaces will be strictly aired, while the ill will not be allowed in to participate in the communal prayer under the prescriptions of Islam. Unquestionably, this will also apply in the case of a single contamination from the coronavirus. The applicant thereupon would proceed to receive instruc-

tions yet again. As per his religious doctrine, hymns will not be chanted in the worship ceremony, but the prayer will be recited loudly only by the Imam.

The Supreme Administrative Court based the dismissal of the forenamed petition on the following assessments: the spread of the disease must be decelerated as much as possible to prevent the overloading of the health care system. To this end, it would be necessary to achieve social distancing. However, the prohibition of the communal Friday prayer during the fasting month of Ramadan constitutes an especially serious infringement of the protected freedom of faith pursuant to Article 4 of the Constitution of the Federal Republic of Germany. In particular, during Ramadan, the Friday prayer has a key liturgical significance. Also, the applicant referred to various sections in the Quran claiming that, according to the rites of Islam, a complete religious participation in the Friday prayers requires physical presence.

The Court further proceeded to compare the places of worship to other closed spaces and discovered that the prohibition of worship in mosques continues to be necessary for the prevention of infections. The position of the applicant according to which the mosques could open anew similarly to trade spaces and shops on similar restrictions and terms (observance of the standing provisions on distance and area regulations for retail shops, the respective restriction on the number of individuals with control of access, the use of face masks, the supply of disinfectants, and the ritual washing with soap) could not be accepted. The assemblies in mosques would then have a substantially higher probability of risk compared to the visits to sale outlets and shops if comparable protective measures were added to the ones provided for by the regulation on their opening. In contrast to the situation in the market shops, worship services in mosques constitute targeted, longer-term communal activities in which, especially owing to the simultaneous prayer and the chants, a high spread of the virus is expected to occur. During Ramadan and due to the large number of mosque-goers and the limited structural quality of many places of prayer, the risk of failed regulations and safety distances is plausible. Therefore, meetings in mosques, churches, and synagogues are clearly closer in nature to the prohibited or the strictly restricted events such as concerts, sport events, and recreational activities, than in the permitted sale outlets in much larger areas. This assessment was also evidently shared by Muslim organisations, the Court concludes.

The partial suspension of the prohibition of assemblies in mosques must in any case be examined by the competent authority –as well as in coordination with the competent health care authorities where necessary– following a respective re-

quest as the one submitted hereinafter by the applicant, whereupon worship services could be subject to derogation under conditions and restrictions appropriate for the situation, insofar as an associated increase of contamination risks are dismissed on reasonable grounds. Determining factors for the assessment are both the size of the interference with the freedom of religion linked to the prohibition, which is especially large with regard to the Friday prayers throughout Ramadan, as well as, *inter alia*, the ability to effectively control the observance of terms and restrictions, the local conditions, the structural size of each mosque community, and lastly, the current assessment of the risks to life and limb emerging from social contacts, which is also probably linked to area size. Upon this reasoning, the judges suspended the prohibition of worship by assessing the factual circumstances of the specific case and by comparing the criteria on the mode of action of other religious communities side by side to decide on the suspension of worship.

The French Council of State also proceeded to a similar weighing of worship and public health³⁷ by also ruling in proceedings of interim judicial protection on the restrictions of worship during the phase of easing strict confinement measures. In particular, the Council of State was asked to deliberate on the legality of the decision whereby all religious worship assemblies were prohibited with the mere exception of funerals where participation was limited to only ten individuals.

Firstly, it is not disputed that huge worship assemblies of, say, 1,000 people on which the administration focused when it came to the protective measures are not representative of all worship ceremonies. Secondly, the decree of 11 May 2020, whose provisions were disputed, provides for many activities which do not necessarily present a risk equivalent to the one posed by worship ceremonies, such as passenger carriage services, which are not subject —taking into account the economic restrictions of their function— to the restriction of ten people per assembly, and meeting in public roads or in a public space. Such assemblies and meetings cannot, even within this limit, be made in worship facilities, except for funeral services. Secondly, the decision continues, the same applies to sales outlets and malls, educational institutions, and libraries which can welcome the public for economic, educational, and cultural reasons by adhering to the provisions applying to them. Thirdly, if, in the first phase of the relaxation of the restrictive measures, assemblies

³⁷ Conseil d'État, 18 May 2020, available at https://www.dalloz-actualite.fr/sites/dalloz-actualite.fr/files/resources/2020/05/conseil_detat_ord._18_mai_2020_no_440366.pdf (last accessed 4 August 2020) (in French).

and meetings are not permitted in facilities which are open to the public —except for places of worship in application of the decree in dispute— the activities exercised there will not be of the same nature, and therefore the fundamental freedoms in jeopardy are not considered to be the same. Lastly, the prohibition of any assembly or meeting in places of worship, with the exclusive exception of funerals in which fewer than twenty people are present, is justified mainly by the desire to restrict —in the first phase of the ‘decongestion’— activities with a larger risk of viral transmission. Therefore, they are neither justified by a probable difficulty in the drafting of safety rules adjusted to the activities in question or by considering the risk that the people in charge of the worship facilities will not be able to ensure the application of the precautionary measures or even that the State authorities cannot exercise effective control on the matter nor due to the insufficient availability of treatment over the course of the first phase of contamination chains. Based on the above, the Court decided that the measures are disproportionately unbalanced.

From the foregoing observations, a new topical right of religious freedom, whose application is *de facto* and *de jure* forced, is being formulated. Yet, its extent or duration could eventually lead to the infringement of religious freedom. More specifically, since the pandemic emerged³⁸ and for as long as it lasts, the right to religious worship is restricted. The measure of its restriction, namely the degree to which it is restricted each time, is uncertain and will be judged individually in each case. Only the criterion of restricting of the principle of proportionality is certain. Who will, however, judge whether there is a state of emergency owing to a pandemic and then specify and implement the stages of the principle of proportionality for each actual case? In the first phase, the measures are reviewed by the administration and, insofar as they are disputed, they are reviewed by the judge in the second phase. The views of the scientist have a consultative function. A decision-making competence lies only with the current government, and its decision has a political character by definition. At this point, the risks run for the protection of religious freedom and, in general, of all the rights restricted due to emergency circumstances are visible. The executive power defines both elements which compose the restriction; it verifies the urgency of the circumstances and the extent of this extraordinary condition, and it also applies the principle of proportionality. An erroneous or intentionally mistaken description of the emergency conditions inevitably leads to a mistaken

³⁸ 11 March 2020: the date of the COVID-19 pandemic declaration by the World Health Organisation (WHO).

application of the principle of proportionality. The final arbiter in judicial power finds oneself before a most difficult duty: that of tackling the final question on how to control the commencement of the logical sequence which ends the restriction of the rights; in other words, how to depend a political decision on the verification of extraordinary circumstances owing to the pandemic. At this point, however, the legal system reaches its limits. The absolutisation of the judicial power and its competences is not a solution, as it leads to the ‘state of judges’, and neither is the demonisation of the executive power, which is eventually either elected or indirectly legitimated by the electorate. Lastly, an absolute, objective judgement cannot exist when all the key institutional actors as well as the author are not at a distance from the events but have rather been experiencing a phase with an unknowable course.

The Orthodox Church of Cyprus and its Adaption in the Coronavirus Era

The Orthodox Church of Cyprus and its Constitutional Position

The Orthodox Church of Cyprus is an ancient religious community espoused by the majority of the citizens of the Republic of Cyprus and constitutes one of the five largest religions of the island. Its administrative organisation and the autonomy enjoyed by it are determined by the system of the State-Denominations relationship in Cyprus and domestic law (see below).

The System of the State-Denominations Relationship in Cyprus

With the establishment of the Republic of Cyprus, the Constitution of 1960³⁹ came into force and applies, to this day, upon revision on the basis of emergency law.⁴⁰ The system of the State-Denominations relationship⁴¹ arises from the combined

³⁹ For a modern interpretation of the Constitution of Cyprus see, inter alios, Achilles C. Emilianides, *Constitutional Law in Cyprus* (2nd edn, Wolters Kluwer, 2019) 10.

⁴⁰ On emergency law and its significance for the legal system of the Republic of Cyprus following the events of 1963 see Achilles C. Emilianides, Christos Papastylianos, Kostas N. Stratilatis, *The Republic of Cyprus and the Doctrine of Necessity (Η Κυπριακή Δημοκρατία και το Δίκαιο της Ανάγκης)* (Athens-Thessaloniki: Sakkoulas, 2016) 5 *et seq* (in Greek).

⁴¹ The term ‘denominations’ is preferable to the —also regularly used term— ‘Church’ to denote the relationship of a religious community with the State for reasons of accuracy and neutrality. Although the term ‘Church’ (Ekklesia) existed prior to Christianity (see ‘Ekklesia tou Demou’ in Ancient Athens) in the Anno Domini era, and especially since the prevalence of Christianity during the Roman Empire, the term is dogmatically charged as it refers to the Christian religion. On the contrary, the term ‘denominations’ occupies every organised doctrine, present or future, with reference —positive or even negative— to the Divine. Thus, see also Ioannis M. Konidaris (in cooperation with Georgios Androutsopoulos),

interpretation of a sizeable number of constitutional provisions.⁴² Typologically speaking, the 1960 Constitution establishes the system of homotaxy for the five largest religions of the island: Greek Orthodox, Muslim, Maronite, Armenian and Roman Catholic. These religious groups hold recognised privileges without any of them being established as the official prevailing or State religion⁴³ and without there being a differentiation, priority or ranking among the five privileged religions which enjoy the same treatment vis-à-vis the Constitution. According to what we noted earlier, the Cypriot State is neutral and does not follow a specific religion. When being assigned their duties, the State functionaries do not take a religious oath or a so-called civil oath but swear their faith and respect to the Constitution and the laws, as well as the preservation of the independence and the territorial integrity of the Cypriot Republic instead.⁴⁴ The Constitution of 1960 was not original in arranging the State-Denominations relationship. It rather adopted the renowned system of Hatt-I Humayun introduced in the Ottoman Empire in 1852, which was implemented in Cyprus when the island was under the Ottoman yoke and remained in force throughout the British rule. Naturally, there is one fundamental amendment: Islam is regarded as one of the five privileged religions. The revision of Article 111 in 1989 by which the jurisdiction of the Orthodox Church was amended did not change the character of the system of relationships. Its basic feature is the equivalence between the Church and the State.

The five largest denominations have an exclusive competence of arrangement of their internal matters with which the State is not able to intervene. On the matters

Ecclesiastical Law Lessons (Μαθήματα Εκκλησιαστικού Δικαίου) (Athens-Thessaloniki: Sakkoulas, 2020), 52 (in Greek).

⁴² For a detailed analysis and a reference to the case law see Achilles C. Emilianides, *Religion and Law in Cyprus* (3rd edn, Wolters Kluwer, 2018) 95.

⁴³ The opposite claims that the Cypriot Constitution establishes an official or prevailing religion (in the same sense of the term appearing in Article 3 of the Greek Constitution) are unfounded, either in the latter case or in the spirit of the constitutional charter. See Ioannis M. Konidaris, Achilles C. Emilianides, *Elements of Greek and Cypriot Law on Religion (Στοιχεία Ελληνικού και Κυπριακού Εκκλησιαστικού Δικαίου)* (Athens-Thessaloniki: Sakkoulas, 2016) 216-218 (in Greek). Furthermore, this is also not the case of the institutionalisation of the system of the polity governing under the law; a neologism adopted to describe the Greek system in accordance with which the State respects the religious doctrine and the basic administrative institutions of the Church while intervening with and freely regulating other administrative matters. See Konidaris (no 38) 63. The fact that the Cypriot Constitution dedicates so much text to the arrangements concerning the Orthodox Church is explained by the fact that this religion is espoused by the majority of the citizens of the Republic and because its first president, Archbishop Makarios III, was the head of the autocephalous Church of Cyprus at the same time of his presidency.

⁴⁴ In accordance with articles 42§1, 59§4, 69 and 100 of the Cypriot Constitution.

of common interest, the representatives of the State and the five largest religious groups discuss equally, and yet, solely the State has the decision-making competence of the establishment of legal rules. The other smaller denominations enjoy the religious freedom ensured by Article 18 of the Cypriot Constitution but not the privileges which the Constitution reserves only for the five largest religions. It becomes evident that the system of homotaxy characterised by equivalence and pluralism is harmonised with the bicomunal principle which transverses the entire constitutional text. Eventually so, the respect of religious freedom is also advanced.

*The Church of Cyprus as a Church Organisation
and Bearer of the Right of Religious Autonomy*

The Orthodox Church of Cyprus is an ancient Church whose establishment dates back to the Apostolic era and is mentioned in the book of the Acts of the Apostles.⁴⁵ A main feature of this Church is its administrative autonomy and independence from the significant neighbouring Churches of the East (Alexandria, Antioch) throughout the period of the first centuries of Christianity. When the Archbishop of Antioch tried to impose himself on the bishops of the island, they reacted and resorted to the Synod of Ephesus denouncing his actions. The Third Ecumenical Council,⁴⁶ as later recognised, defended the Cypriot archpriests and conferred the validity of the autocephaly of the Church of the island (previously only expressed as a sacred canon) which had applied until then and without ever having been disputed in accordance with the tradition ('the ancient customs ought to prevail' - sixth canon of the First Ecumenical Council). The autocephaly of the Cypriot Church was also affirmed by the thirty-ninth canon⁴⁷ of the Quinisext Ecumenical Council.⁴⁸ This independence was in fact retained despite the transfer of the clergy and the people of the said Church from Cyprus to the area of Cyzicus of Asia Minor due to enemy raids. The aim of the adoption of this holy canon does nothing more than to ensure the autonomy of the autocephalous Church of Cyprus despite the relation and the subjection of the former archpriests to the Archbishop of Cyprus rather than the Throne of Constantinople, for as long as the relation lasted.

⁴⁵ Luke Timothy Johnson, Daniel J. Harrington, *The Acts of the Apostles* (1992) 13:4.

⁴⁶ Canon 8. See G. Rallis, M. Potlis, *Constitution of the Holy and Sacred Canons*, 2 (Γ. Πάλλη, Μ. Ποτλή, *Σύνταγμα τῶν Θείων καὶ Ἱερῶν Κανόνων*) (Athens, 1852) 203 (in Greek).

⁴⁷ *Ibid.*, 395-396.

⁴⁸ Georgios Gavardinias, *The Quinisext Ecumenical Synod (Council) and its Legislative Work (Ἡ Πενθέκτη Οἰκουμενική Σύνοδος καὶ τὸ Νομοθετικὸ τῆς Ἔργου)* (Katerini: Epektasi, 1998) 147 (in Greek).

The independence of the Cypriot Church was respected throughout the Byzantine Empire, while it was restricted to a great extent—if not entirely abolished—during the Frankish rule. During the Ottoman rule and the British rule that succeeded it, the special role of the Orthodox Church on the island was highlighted, as not only it retained the right to be governed by its domestic law but was also elevated to an acting-as-ethnarch Church⁴⁹ which played a significant role in the struggle of the Cypriots for independence⁵⁰. However, despite the self-organisation and its self-government, its First Charter—which was a decision of the Church itself and not an act of the State—was only published in 1914⁵¹ after centuries of being applied according to the sacred canons and the holy tradition. As already noted, the extensive autonomy⁵² of the autocephalous Church of Cyprus was established by the Cypriot Constitution of 1960 which (officially) adopted the preexisting system of homotaxy. Article 110 of the Constitution establishes the exclusive right⁵³ of the Orthodox Church to arrange and manage its domestic matters. It does not include, however, any reservation on the restriction of these rights from other provisions of the Constitution. This element led the theory⁵⁴ that the Orthodox Church is not subject to the provisions of Part II of the Constitution. On the one hand, this view is strengthened by Article 111 of the Constitution, which, contrary to Article 110, focuses on the enshrinement of the sacred canons which pertain to the administration of the internal matters of the Church and the management of its property. Pursuant to the sacred canons and to the current Charter⁵⁵ of the Church, the autocephalous Church of Cyprus is obliged to manage all its internal matters. For the

⁴⁹ On the term and its meaning see Emilianides (no 41) 45.

⁵⁰ John Hackett, *A History of the Orthodox Church of Cyprus* (London: Methuen & Co., 1901) 12-63.

⁵¹ For the period up to the voting of the Charter see Eric Sergiou, *The Statutory Legislation of the Church of Cyprus. Until the voting of the 1979 Charter (Η Καταστατική Νομοθεσία της Εκκλησίας της Κύπρου: Μέχρι και την Ψήφιση του Καταστατικού Χάρτη του 1979)* (Nicosia: Kykkos Monastery Centre of Studies, 2007) 61 (in Greek).

⁵² Emilianides (no 41) 102.

⁵³ Whatever applies to the Orthodox Church also applies to the other four religious groups.

⁵⁴ Konidaris, Emilianides (no 42) 187.

⁵⁵ The new Charter (the third in order) applies from 1 January 2010 in the history of the Church of Cyprus. For the text see Frixos Kleanthous (ed.), *The Statutory Charter of the Holy Church of Cyprus (Ο Καταστατικός Χάρτης της Αγιοτάτης Εκκλησίας της Κύπρου)* (2010), available at https://churchof-cyprus.org.cy/wp-content/uploads/2015/12/ΚΑΤΑΣΤΑΤΙΚΟ_DIMOTIKI.pdf (last accessed 1 September 2020) (in Greek). On a critical view on the new arrangements see Achilles C. Emilianides, Costas Katsaros, *The New Charter of the Church of Cyprus (Ο Νέος Καταστατικός Χάρτης της Εκκλησίας της Κύπρου)* (Nicosia: Hippasus, 2013) 5 *et seq* (in Greek).

protection of the dogmatic canons, Article 110 is not necessary; Article 18 which enshrines religious freedom suffices.⁵⁶

From all of the above, it becomes evident that the autocephalous Church of Cyprus enjoys a remarkable autonomy both in the framework of the system of Orthodox Churches, that is in canon law, but also by virtue of the Cypriot Constitution and the ECHR at the level of State law.

The Freedom of Worship in the First Phase of the Restrictive Measures

In Cyprus, the first phase of the restrictive measures for the protection from the coronavirus starts with the address⁵⁷ to the people of the Republic by their President on 13 March 2020. After a two-day meeting of the Council of Ministers, the measure of restricting assemblies to a maximum of 75 people by maximum permissible capacity in large interior spaces, including places of worship and especially parish churches which are being examined in the present study, was introduced. It must be noted that in the announcements following the government briefing to a certain extent—as was evident *ex post*—the specification of the protective measures during church congregations was reserved for the Church itself.⁵⁸ This choice on the part of the executive power must not be seen as an indication of respect and courtesy but as a result of the system of the State-Church relationship and the increased autonomy of the Church, which equally manifested itself in the following phases of the implementation of restrictive measures.

In the following⁵⁹ press release of the Archdiocese of Cyprus, there are quite a few memorable points worth keeping (besides the anticipated invitation to prayer). First, the Church not only harmonises with the restrictive measures but also provides ardent support to the executive power of the State of whose stance it overtly approves. Furthermore, it calls the faithful to abstain from worship ‘as the benefit

⁵⁶ Konidaris, Emilianides (no 42) 221.

⁵⁷ ‘Statement by the President of the Republic, Mr. Nicos Anastasiades, following the extraordinary meeting of the Council of Ministers’ (‘Δήλωση του Προέδρου της Δημοκρατίας κ. Νίκου Αναστασιάδη κατά τη συνέντευξη Τύπου, στο Προεδρικό Μέγαρο, μετά την έκτακτη συνεδρία του Υπουργικού Συμβουλίου), available at <https://www.pio.gov.cy/%CE%B1%CE%BD%CE%B1%CE%BA%CE%BF%CE%B9%CE%BD%CF%89%CE%B8%CE%AD%CE%BD%CF%84%CE%B1-%CE%AC%CF%81%CE%B8%CF%81%CE%BF.html?id=12670#flat> (last accessed 4 August 2020).

⁵⁸ *Ibid.*, directly quoted: ‘In relation to the issue of church attendance and the measures decided by the Government, I informed His Beatitude the Archbishop of Cyprus, who, realizing the seriousness of the situation, will make announcements this afternoon.’

⁵⁹ Archdiocese of Cyprus, ‘Press Release’ (‘Δελτίο Τύπου’), 15 March 2020, available at www.churchof-cyprus.org.cy/60386 (last accessed 4 August 2020).

which will arise with the elapse of this trial will be significantly greater'.⁶⁰ Last but not least, a significant point made in the press release is the adoption of 'digital worship'⁶¹ and the exhortation to the faithful to settle with this arrangement for the period of abstention from worship.

During this first phase, the abstention from worship remained at the level of recommendation and was not in any way enforceable. At the same time, the administration of the Church⁶² informally adopted an additional measure: it permitted the entry and stay of the first ten people in the church by assigning to the church commissioners the responsibility⁶³ to control the entry of the permitted number of people and to prevent more from entering.

The Period of Complete Restriction of the Freedom of Worship

The period of mild restrictive measures was short-lived, as the spreading of the coronavirus forced the government to take more, significantly stricter measures which were also implemented in the places of worship. Pursuant to the Decree of the Minister of Health which was issued on the law on quarantine to protect public health, restrict the disease of COVID-19, and deter a probable collapse of the health care system due to the virus, a prohibition of large gatherings of citizens in places of religious worship, such as churches, temples and other places of prayer was imposed. This prohibition was extended and was valid until 3 May 2020.

During this time, which included the Holy Week and Easter Day, the clergy officiated at the liturgies 'on camera' in the presence of the absolutely essential members: the priest, church chanters, the sacristan and some of the commissioners. Insofar as the necessary equipment was in place, the liturgies were broadcast via TV, radio, and the internet. However, churches never halted their operation, despite the use of technology.

It is quite interesting to note the differences between the restrictive measures taken by the Cypriot administration for the places of worship and the ones taken

⁶⁰ Ibid.

⁶¹ By this neologism an effort is made to describe the participation of the faithful in liturgies via live TV and radio transmission of the holy liturgies or through the internet. These live broadcasts have always been available to the public. However, in the pre-coronavirus era the rule was that 'listening to the Liturgies and the Holy Mass in no case replaces the physical presence and participation of the faithful in the parish life'. See <https://ecclesiaradio.gr/> (last accessed 4 August 2020).

⁶² At least in the geographical region which is subject to the administrative boundaries of the Archdiocese of Cyprus.

⁶³ On the function of the church commissioners in the Church of Cyprus see, inter alia, Konidaris, Emilianides (no 42) 288 *et seq.*

by the Greek administration during the same period and for the approach of the same risk both prior to and during the lockdown. As the decision of the Church of Greece⁶⁴ was not deemed adequate for the protection of human health, a decision⁶⁵ was issued by the Minister of Education and the Minister of Health upon order of the Prime Minister, whereby the temporary prohibition of the officiation of any type of liturgies and rituals in all spaces of religious worship was adopted on preventive grounds of public health and for the period from 16 to 30 March 2020. Only the arrival of individuals for prayer was permitted until its suspension⁶⁶ a few days later when movement restriction measures were introduced.

Thus, a paradoxical phenomenon emerged: the prohibition by law of the performance of any rites in a male holy monastery with a hieromonk resident among the fraternity, even though this is the case of a convent where, by definition, everything is communal (e.g. lunch and dinner) and, therefore, the risk of viral transmission is the same as the one in a multi-member family whose members reside under the same roof. The prohibition was extended until 11 April 2020, while for the Holy Week and Easter Day, the performance of rituals and sacraments was permitted in the presence of only the most essential members of church.

⁶⁴ In its customary session of 16 March 2020, the Standing Holy Synod of the Church of Greece decided that the churches would stay open for the individual prayer of the faithful and that from 22 March 2020 until Lazarus Saturday on 11 April 2020, the holy mass would be held in the presence of the churchgoers from 7 to 8 am, in a sensible fashion. Enrica Martinelli, 'The Greek Orthodox Church in the Time of the Pandemic' ('La Chiesa Ortodossa Greca ai Tempi dell' Epidemia da SARS-CoV-2') 25 March 2020, available at <https://diresom.net/> (last accessed 4 August 2020) (in Italian) and Georgios Androutsopoulos, 'Public Health and Freedom of Worship in the Covid-19 Era' ('Δημόσια Υγεία και Θρησκευτική Λατρεία στην Εποχή του Covid-19'), available at http://www.publiclawjournal.com/docs/2020/1_2/2020_5_1_2_androutsopoulos.pdf (last accessed 4 August 2020) (in Greek) believe that with these measures the Church of Greece exhausted all the margins of its conciliation. It is thought that the decision of the Church of Greece was not bold and realistic but such to shift the burden to the State. On the contrary, the proposal that followed in view of the Holy Week and the Easter Day, involved the possibility of holding church service with the participation of only the absolutely essential members (priest, chanter, sacristan and one of the church commissioners).

⁶⁵ Greek Government gazette, A' 42. Cf. L. 4682/2020 Greek Government gazette A' 76 (3 April 2020).

⁶⁶ The ability to visit places of worship for individual prayer was suspended following the Joint Ministerial Decision, see Greek Government Gazette, 'Introducing the Measure of Temporary Restriction of Travel for the Limitation of the Covid-19 Contagion' ('Επιβολή του Μέτρου του Προσωρινού Περιορισμού της Κυκλοφορίας των Πολιτών προς Αντιμετώπιση του Κινδύνου Διασποράς του Κορωνοϊού') B' 986, Δ1α/Γ.Π οικ 20036, (22 March 2020) (in Greek) as it was not justified as a reason for travel and was not included in the Joint Ministerial Decision, Δ1α/ΤΠοικ 23093/6.4.2020 (Greek Government gazette B' 1178) which followed.

The differences between Cyprus and Greece in the management of the pandemic with respect to worship by both the State and the Church are evident. This discrepancy could be explained in terms of the relationships between the heads of the Church and the State or even the differences in their personalities, as well as the very structure of the organisation of each of the Churches. In Cyprus, the Church is a self-governed and self-sufficient legal entity which exists independently of the State and which is, in fact, experienced with the concept of autonomy the management of situations regardless of State regulation. On the contrary, in the modern Greek State the Orthodox Greek Church has been the official Church since 1975 and has been always regulated by the State. Even under its current constitutional status,⁶⁷ the Church of Greece does not constitute a public service in compliance with the organic criterion, as its Charter is a formal law, and its officiators are salaried by the State budget. Therefore, the Greek Orthodox Church has obtained the mentality of a Greek public service and is content with being regulated by State acts, having repudiated all autonomy granted by the working relationship between Church and State in Greece.

Current Period: The Proportionality of Restriction of Worship and its Safeguarding by the Religious Community

The date 4 May 2020 constitutes a landmark date for the exercise of public worship in Cyprus. From this day onwards, the absolute prohibition of congregation in places of worship was waived, and terms and conditions were stipulated in accordance with the hygiene protocols on the protection from the coronavirus in large indoor areas. For the Church of Cyprus, the observance of these protocols was assigned to the church committee of each parish church. In fact, the head of the Church of Cyprus officially communicated with the President of the Cypriot Republic and guaranteed the accurate application of the protection measures. A typical token of self-organisation is the adoption (at least by the Archdiocese) of stricter social distancing measures in the churches and their yards in relation to the instruc-

⁶⁷ The majority opinion upholds the term ‘prevailing religion’ in Article 3 of the Greek Constitution to refer to the fact that the majority of the Greek people espouse the Orthodox denomination. The term has restricted regulatory consequences. See Konidaris (no 40) 97. The Council of State endorses this view and yet, in one of its recent decisions, argued that Article 3 applies to other provisions of the Constitution and delimits their interpretation. See the Judgment of the Council of State (Plenary Session) (Ολ. ΣτΕ) 926/2018 in (2018)2 *Nomokanonika* 113 (in Greek).

tions and the precautionary measures published by the Ministry against the new coronavirus.⁶⁸

While the State made the number of people congregating in a church depended on its square meters, the Archdiocese adopted a fixed criterion: The Holy Week Liturgies would be held with open gates while the church commissioners would be entrusted with the duty to monitor the number of people entering the church so that they do not exceed ten at any given time, regardless of the size of the church. Since, as a rule, parish churches are sizable, the above measure is indicative of the determination of the administration of the Church, however strict it might be. Similar measures were adopted for those who desired to receive Holy Communion. The faithful would come to the Church at a fixed time, and care would be taken by the church commissioners to make sure the total number of those simultaneously present in the church for Holy Communion does not exceed ten, while also ensuring the observance of safety distances prescribed by the law. As a general rule, only after one of the church attendants who has received Communion has left, another one can enter. Subsequently, the duties of the church commissioners were multiplied, as they were basically entrusted with the joyless role of implementing measures supervising the church attendants. In this manner, the active involvement of the laic element in the operation of the church organisation in times of a pandemic is increased⁶⁹ in relation to other homodox Churches.⁷⁰ To these measures, the mandatory use⁷¹ of the protective facemask was recently added; until then, it had been optional but also recommended for their use by vulnerable groups.

Inevitably, a question is raised: can the measures adopted in the post-lockdown era be described as proportional and thus co-exist with the freedom of religion? The

⁶⁸ Church of Cyprus, 'Instructions and Protective Measures Against COVID-19 in Church Premises' ('Οδηγίες και Μέτρα Προφύλαξης από τον Νέο Κορωνοϊό (SARS-CoV-2) στους Ορθοδόξους Ιερούς Ναούς, Εξωκλήσια και Ιερές Μονές της Εκκλησίας της Κύπρου'), available at www.churchofcyprus.org.cy/61889 (last accessed 5 August 2020).

⁶⁹ Laymen in the Church of Cyprus participate decisively in all the levels of administration of the Church with the most prominent example of their participation being the election of an Archbishop, the Metropolitans, and the Chorepiscopi. For more details see Konidaris, Emilianides (no 42) 288.

⁷⁰ In the Church of Greece, the church commissioners are appointed by decision of the relevant Metropolitan Council. The placement of the church commissioners by election, a residue of the community organisation which had been valid in Greece since before the Ottoman rule, was abolished by the dictatorship of Ioannis Metaxas. See Konidaris, (no 40) 183. The laic element is completely precluded in the elections of Metropolitans and the Archbishop.

⁷¹ From 1 August 2020, as per the relevant Decree of the Ministry of Health addressing the increase of the recorded coronavirus cases in Cyprus.

answer to this question is neither self-evident nor easy to provide, as it is important to cross-examine more evidence. First, the fact that contrary to other countries, which have already been examined, as well as Greece, where the petition for annulment was rejected and the trial was dismissed as being unfounded,⁷² the legality of the measures concerning the places of worship in Cyprus was not contested judicially, which is admirable in its own right. Nevertheless, the element on which greater emphasis should be placed is the following: in the logical and legal sequence of the introduction of the restrictive measures, the initiative belonged to the State, but in the framework of the system of homotaxy, the Church either consented to or adopted the protective measures. This endorsement and specification of the measures is not at all negligible. It represents the exercise of autonomy which the Cypriot constitution confers upon the autocephalous Church of Cyprus, allowing it to arrange its own internal matters and supporting the will of the Church to exploit the benefits of this autonomy without having to accept any form of subrogation from the State, even amidst such unforeseeable and extraordinary circumstances, or force majeure, dictated by the pandemic. In this light, the measures implemented by the Church of Cyprus cannot be regarded as disproportionate to and disconnected from the fundamental right of religious freedom, as this is not just an imposition of a set of restrictions by the State onto the church organisation but rather a parallel self-restriction on the actions of church organisation itself, where self-restriction constitutes an exercise of autonomy.

In Conclusion: Experience as a Guide

It has become clear that the freedom of worship in the era of the COVID-19 pandemic is a restricted type of freedom in accordance with the principle of proportionality. The religious freedom enjoyed by every ecclesiastical organisation is, to a great degree, dependent on the standing system of relationships between a State and the Denominations, as well as on the standards of the protection of fundamental rights of each State. The autocephalous Church of Cyprus operates under the rule of law and enjoys extensive autonomy which grants discretion in the specification of these restrictions. This balancing act has been vividly reflected in the course of the restriction of religious freedom in Cyprus so far. It is precisely this experience that helps design the interpretive tools for the restrictions of religious freedom in the occasion of a second wave of the present pandemic. At the same time, this expe-

⁷² See the Ruling of the Council of State 161/2020.

rience is a valuable aid in the case of emergency restrictions of fundamental rights in unprecedented circumstances. The principle of proportionality ad hoc and *in concreto* requires subtle and arduous work to prove how deep the democratic nature of a constitutional society is and how much it respects fundamental freedoms.

References

Archdiocese of Cyprus, 'Press Release' ('Δελτίο Τύπου'), 15 March 2020, available at www.churchofcyprus.org.cy/60386 (last accessed 4 August 2020).

BVerfG, Decision of the 2nd Chamber of the First Senate (Beschluss der 2. Kammer des Ersten Senats) of 10 April 2020 – 1 BvQ 28/20, paras 1-16, available at https://www.bundesverfassungsgericht.de/e/qk20200410_1bvq002820.html (last accessed 4 August 2020) (in German).

BVerfG, Decision of the 2nd Chamber of the First Senate (Beschluss der 2. Kammer des Ersten Senats) of 29 April 2020 – 1 BvQ 44/20, paras 1-19, available at https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/04/qk20200429_1bvq004420.html (last accessed 4 August 2020) (in German).

Conseil d'État, 18 May 2020, available at https://www.dalloz-actualite.fr/sites/dalloz-actualite.fr/files/resources/2020/05/conseil_detat_ord._18_mai_2020_no_440366.pdf (last accessed 4 August 2020) (in French).

Church of Cyprus, 'Instructions and protective measures against COVID-19 in Church Premises' ('Οδηγίες και Μέτρα προφύλαξης από τον Νέο Κορωνοϊό (SARS-CoV-2) στους Ορθοδόξους Ιερούς Ναούς, Εξωκλήσια και Ιερές Μονές της Εκκλησίας της Κύπρου'), available at www.churchofcyprus.org.cy/61889 (last accessed 5 August 2020).

Cyprus Government Gazette, *Quarantine Law (Ο περί Λοιμοκαθάρσεως Νόμος)* (2020), available at <https://www.pio.gov.cy/coronavirus/diat/55.pdf> (last accessed 4 September 2020) (in Greek).

European Court of Human Rights (ECtHR), *European Convention on Human Rights* (ECHR) (2010), available at https://www.echr.coe.int/documents/convention_eng.pdf (last accessed 15 April 2021).

Greek Government gazette, A' 42. Cf. L. 4682/2020 Greek Government gazette A' 76 (3 April 2020).

Greek Government Gazette, 'Introducing the Measure of Temporary Restriction of Travel for the Limitation of the Covid-19 contagion' ('Επιβολή του Μέτρου

του Προσωρινού Περιορισμού της Κυκλοφορίας των Πολιτών προς Αντιμετώπιση του Κινδύνου Διασποράς του Κορωνοϊού'), Β' 986, Δ1α/Γ.Π οικ 20036(22 March 2020) (in Greek)

Greek Government gazette, 'Joint Ministerial Decision' Δ1α/Γ.Π οικ 23093, Β' 1178 (6 April 2020).

Hasan and Chaush v Bulgaria Appl. no 30985/96 (ECtHR, October 2000).

Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Ors v Bulgaria Appl. no 412/03 and 35677/04 (ECtHR, 22 January 2009).

Jacobson v Massachusetts (1905), 197 U.S. 11,25 S.Ct. 358, 49 L. Ed. 613, 3 Ann. Cas. 765.

Kleanthous F. (ed.), *The Statutory Charter of the Holy Church of Cyprus (Ο Καταστατικός Χάρτης της Αγιοπάτης Εκκλησίας της Κύπρου)* (2010), available at https://churchofcyprus.org.cy/wp-content/uploads/2015/12/KATASTATIKO_DIMOTIKI.pdf (last accessed 1 September 2020) (in Greek).

Metropolitan Church of Bessarabia & al. v Moldavia Appl. no 45701/99, (ECtHR, December 2001).

Official Journal of the European Communities, *Charter of Fundamental Rights of the European Union (CFR)* (2000), available at https://www.europarl.europa.eu/charter/pdf/text_en.pdf (last accessed 15 April 2021).

Rallis G., Potlis M., *Constitution of the Holy and Sacred Canons*, 2, (Γ. Πάλλη, Μ. Ποτλή, *Σύνταγμα τῶν Θείων καὶ Ιερῶν Κανόνων*) (Athens 1852) (in Greek).

Sindicatul "Păstorul cel Bun" v Romania, Appl. no 2330/09 (ECtHR, 9 July 2013).

'Statement by the President of the Republic, Mr. Nicos Anastasiades, following the extraordinary meeting of the Council of Ministers' (Δήλωση του Προέδρου της Δημοκρατίας κ. Νίκου Αναστασιάδη κατά τη συνέντευξη Τύπου, στο Προεδρικό Μέγαρο, μετά την έκτακτη συνεδρία του Υπουργικού Συμβουλίου), available at <https://www.pio.gov.cy/%CE%B1%CE%BD%CE%B1%CE%BA%CE%BF%CE%B9%CE%BD%CF%89%CE%B8%CE%AD%CE%BD%CF%84%CE%B1-%CE%AC%CF%81%CE%B8%CF%81%CE%BF.html?id=12670#flat> (last accessed 4 August 2020).

Svyato-Mykhaylivska Parafiya v Ukraine Appl. no 77703/01 (ECtHR, 14 June 2007).

Zucht v King (1922), 260 U.S. 174, 43 S. Ct. 24, 67 L. Ed. 194.

- Androutsopoulos G., ‘Public Health and Freedom of Worship in the Covid-19 Era Publiclaw’ (‘Δημόσια Υγεία και Θρησκευτική Λατρεία στην Εποχή του Covid-19’), available at http://www.publiclawjournal.com/docs/2020/1_2/2020_5_1_2_2_androutsopoulos.pdf (last accessed 4 August 2020) (in Greek).
- Asproulis N., N. Wood, *Tempus Faciendi: Orthodoxy Faced With the Coronavirus Pandemic (Καιρός του Ποιήσαι: η Ορθοδοξία ενώπιον της Πανδημίας του Κορονοϊού)* (Volos: Ekdotiki Dimitriadou, 2020) (in Greek).
- Ballin E. H., G. Van Der Schyff, M. Stremler (eds), *Judicial Power: Safeguards and Limits in a Democratic Society-European Yearbook of Constitutional Law 2019* (The Hague: TMC Asser Press, 2020) 329-333.
- Biblical Centre of the Chuvash Republic v Russia* Appl. no 33203/08 (ECtHR, 12 June 2014).
- Catholic Church, ‘The Eucharist – Source and Summit of Ecclesial Life’ in *The Catechism of the Catholic Church* (Vatican City: Libreria Editrice Vaticana).
- Doe N., *Law and Religion in Europe: A Comparative Introduction* (Oxford: Oxford University Press, 2011) 62-63.
- ECtHR, *Guide on Article 9 of the European Convention on Human Rights* (2020), available at https://www.echr.coe.int/Documents/Guide_Art_9_ENG.pdf (last accessed 4 August 2020).
- Emilianides A. C., *Beyond the Constitution of Cyprus* (Athens-Thessaloniki: Sakkoulas, 2006) 273-275.
- Emilianides A. C., *Constitutional Law in Cyprus* (2nd edn, Wolters Kluwer, 2019).
- Emilianides A. C., C. Katsaros, *The New Charter of the Church of Cyprus (Ο Νέος Καταστατικός Χάρτης της Εκκλησίας της Κύπρου)* (Nicosia: Hippasus, 2013) (in Greek).
- Emilianides A. C., C. Papastylianos, K. Stratilatis, *The Republic of Cyprus and the Doctrine of Necessity (Η Κυπριακή Δημοκρατία και το Δίκαιο της Ανάγκης)* (Athens-Thessaloniki: Sakkoulas, 2016) (in Greek).
- Emilianides A. C., *Religion and Law in Cyprus* (3rd edn, Wolters Kluwer, 2018).
- Engel Chr., ‘Law as a Precondition for Religious Freedom’ (2011) 6 *MPI Collective Goods Preprint*.
- Fernández Martínez v. Spain* Appl. no 56030/07 (ECtHR, June 2014).

- Gavardinias G, *The Quinisext Ecumenical Synod (Council) and its Legislative work (Η Πενθέκτη Οικουμενική Σύνοδος και το Νομοθετικό της έργο)* (Katerini: Epektasi, 1998) (in Greek).
- Hackett J., *A History of the Orthodox Church of Cyprus* (London: Methuen & Co., 1901).
- Konidaris I. M., (in cooperation with Georgios Androutsopoulos), *Ecclesiastical Law Lessons (Μαθήματα Εκκλησιαστικού Δικαίου)* (Athens - Thessaloniki: Sakkoulas, 2020) (in Greek).
- Konidaris I. M., Emilianides A. C., *Elements of Greek and Cypriot Law on Religion (Στοιχεία Ελληνικού και Κυπριακού Εκκλησιαστικού Δικαίου)* (Athens-Thessaloniki: Sakkoulas, 2016) (in Greek).
- Martinelli En., 'The Greek Orthodox Church in the Time of the Pandemic' ('La Chiesa Ortodossa Greca ai Tempi dell' Epidemia da SARS-CoV-2') 25 March 2020, available at <https://diresom.net/> (last accessed 4 August 2020) (in Italian).
- Martinez-Torron, J., 'Limitations on Religious Freedom in the Case Law of the European Court of Human Rights' (2005) 19 *Emory International Law Review* 587-636.
- Pope Paul VI, 'Dogmatic Constitution on the Church - Lumen Gentium' (Vatican: The Holy See, Rome: 21 November 1964).
- Rivers J., 'Proportionality and Variable Intensity of Review' (2006) 65(1) *The Cambridge Law Journal* 174-207.
- Robbers G. (ed.), *Church Autonomy: A Comparative Survey* (Frankfurt am Main: Peter Lang, 2001), available at <https://www.iclrs.org/church-autonomy-a-comparative-survey/> (last accessed 4 August 2020).
- Robbers G., 'The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in Germany' (2005) 19 *Emory International Law Review* 841-888.
- Scaccia G., 'Proportionality and the Balancing of Rights in the Case-Law of the European Courts' (2019) 4 *Federalismi.it* 1-34.
- Sergiou E., *The Statutory Legislation of the Church of Cyprus. Until the voting of the 1979 Charter (Η Καταστατική Νομοθεσία της Εκκλησίας της Κύπρου: Μέχρι και την Ψήφιση του Καταστατικού Χάρτη του 1979)* (Nicosia: Kykkos Monastery Centre of Studies 2007) (in Greek).
- Tobey J. A., *Public Health Law* (3rd edn, New York: Commonwealth Fund, 1947).

Tzemos V., 'Mature Proportionality. The Proportionality of the Restriction of Fundamental Rights as a Rule of Constitutional Law and EU Law Which Does Not Include Proportionality *Stricto Sensu*' ('Η «Ωριμη» Αναλογικότητα. Η Αναλογικότητα των Περιορισμών των Θεμελιωδών Δικαιωμάτων ως Κανόνας του Συνταγματικού Δικαίου και του Δικαίου της ΕΕ που δεν Περιλαμβάνει την Αναλογικότητα σε Στενή Εννοια') (2019) 2 200 -205 (in Greek).

Vasiliadis P. (ed.), *The Church in a Period of Pandemic. Can the Present Pandemic Crisis Become a Meaningful Storm for Renewal in our Churches?*, CEMES 25 (Cemes and Fordham Publications, 2020).

Witte J., M. Christian Green (eds), *Religion and Human Rights: An Introduction* (Oxford: Oxford University Press, 2012).

Evolutionary Transformation of the Global System and the COVID-19 Pandemic: The Search for a New Development Trajectory

CHARIS VLADOS,¹ DIMOS CHATZINIKOLAOU²

Abstract

In this study, we aim to determine how the global turmoil of COVID-19 acts as a catalyst for global transformations. After examining recent sociological and economic implications of this pandemic crisis, we analyse specific theoretical frameworks that can be helpful to illuminate some of the features of the current global evolutionary readjustment from an elliptic point of view. These theoretical approaches are the techno-economic paradigm shift, the notion of ‘endless transition’, the fourth industrial revolution analytical framework, and the approach of ‘new globalisation’. Finally, we identify that the current pandemic crisis has caused a ‘stroke’ to the world economy that accelerates developments and radically intensifies the pre-existing challenges. Especially for the less developed, stable, and resilient socio-economic systems and organisations (the case study of Cyprus is examined, respectively), we conclude that their survival and growth depends primarily upon their potential for adaptiveness, innovation, and on building efficient change management aptitudes and mechanisms.

Keywords: evolutionary global transformation, COVID-19 pandemic, economic development, techno-economic paradigm shift, endless transition, fourth industrial revolution, new globalisation, Cypriot socio-economic system, adaptiveness, change management

Introduction

Gramsci³ once wrote that ‘the crisis consists precisely in the fact that the old is dying and the new cannot be born; in this interregnum, a great variety of morbid symptoms appear’. From a converging point of view, this paper will explore to what

¹ Lecturer, Department of Economics, Democritus University of Thrace; Adjunct Faculty, School of Business, University of Nicosia.

² PhD candidate, Department of Economics, Democritus University of Thrace.

³ Antonio Gramsci, *Selections from the Prison Notebooks* (first published 1948, 11th edn, New York: International Publishers 1992) 270.

extent an evolutionary understanding of the crisis provides answers to the current global systemic transition following the changes caused by COVID-19 (the words pandemic and COVID-19 will be used interchangeably hereafter). Evolutionary socio-economic science treats systems and actors as subjects to constant movement caused by the forces of continuous innovation and overall mutations.⁴ The critical question that is investigated by this stream of thought is what economic progress socio-economic systems achieve over time through a path of constant reversals and rebalances.⁵ In this evolutionary theorisation, the generator of innovation – the capitalist firm and the entrepreneur primarily – is not treated according to conventional, mostly simplistic and ‘myopic’, neoclassical analytical tools and standards.⁶ Instead, the evolutionary tradition uses biological analogies, treating the firm as an adaptive ‘organism’ with specific behaviours and an evolutionary hypostasis.⁷

Every ‘institution’, in generic terms, is also a critical concept for the perception of evolutionary change in this direction. In the institutionalist approach, an institution means the specific space-time framework that hosts the sum of the structures that generate culture and behaviour.⁸ In this sense, the institutional background contributes dominantly to socio-economic development. Nowadays, especially after the pandemic crisis of COVID-19, the three elements of change in the evolutionary analysis of the economy, that is, innovation, business adaptation, and the evolution of the overall institutional background, seem to be drastically repositioned.

This study will try to determine whether the current coronavirus disease and consequent socio-economic crisis are accelerating global developments by providing an introductory analysis of the unfolding situation. The primary question asked is how do we expect socio-economic systems to change and rebalance? More spe-

⁴ Joseph Schumpeter, *Capitalism, Socialism and Democracy* (first published 1942, Taylor & Francis e-Library, 2003.).

⁵ Richard R. Nelson & Ors, *Modern Evolutionary Economics: An Overview* (Cambridge: Cambridge University Press, 2018).

⁶ Charis Vlahos, ‘The Classical and Neoclassical Theoretical Traditions and the Evolutionary Study of the Dynamics of Globalization’ (2019) 6 *Journal of Economics and Political Economy* 257-280; Sepehr Ghazinoory, Meysam Narimani, Shiva Tatina, ‘Neoclassical versus Evolutionary Economics in Developing Countries: Convergence of Policy Implications’ (2017) 27 *Journal of Evolutionary Economics* 555-583.

⁷ Dimos Chatzinikolaou, Charis Vlahos, ‘Evolutionary Economics and the Stra.Tech.Man Approach of the Firm into Globalization Dynamics’ (2019) 5(10) *Business, Management and Economics Research* 146-160.

⁸ Geoffrey M. Hodgson, *Economics and Evolution: Bringing Life Back into Economics* (Cambridge: Polity Press, 1993).

cifically, concerning the less competitive and adaptive business ecosystems, what is the impact of the pandemic crisis, and what can we do about it? Concerning the latter, we will suggest that the post-pandemic recovery of the less developed socio-economic formations means the systematic strengthening of their innovation and adaptiveness potential. More specifically, they will need reinforcement in overcoming deficiencies related to change management and to successfully adapting to the emerging requirements of simultaneous competition and cooperation.⁹

Although the COVID-19 phenomenon is recent and the available data is relatively limited for an integrated forecast, the existing theoretical framework of the global systemic crisis seems to have an interpretative power that can unravel critical trends of future development and underdevelopment. In terms of a positive outcome, the pandemic crisis creates the conditions for accelerating technological modernisation in various socio-economic systems and sub-systems, in sectoral, spatial, and entrepreneurial terms. In contrast, it simultaneously creates challenges for firms, industries, and national economies that face adaptation problems. In other words, we believe that this study contributes to the relevant scientific dialogue as it links the dynamics of overcoming the global crisis to the current dynamics of developments caused by the COVID-19 pandemic.

Concerning the methodology of this study, we will attempt to answer these questions by following five steps:

- A. Social and economic implications (timely forecasts and policy responses) are presented to explore how the COVID-19 crisis affects the socio-economic environment.
- B. The perceptual context of global evolutionary change and crisis is explored by utilising relevant analytical contributions.
- C. Subsequently, the aim is to investigate whether the COVID-19 crisis is accelerating or repositioning global developments towards a new phase of globalisation.
- D. Cyprus is examined as a specific case study to show the certain challenges arising for the various socio-economic systems.
- E. In conclusion, possible ways to enhance the resilience and flexibility of firms (socio-economic organisations) are explored, stressing that adaptability and efficient change management are the necessary skills to deal with the ubiquitous crisis.

⁹ Stefan Markovic & Ors, 'Business-to-business Open Innovation: COVID-19 Lessons for Small and Medium-Sized Enterprises from Emerging Markets' (2021) 170 *Technological Forecasting and Social Change*; Adam M. Brandenburger, Barry Nalebuff, *Co-opetition: A Revolution Mindset that Combines Competition and Cooperation* (New York: Doubleday, 1996).

Gradual Unfolding of the Post-COVID-19 Era via Structural Socio-economic Turbulence

Since the end of December 2019, when a group of patients with ‘atypical pneumonia’ was identified in Wuhan, China, an ‘external’ dynamic of chain reactions has erupted. The current pandemic crisis of COVID-19 rearranges the global socio-economic system in unpredictable directions. In this section, we explore sociological implications of the current crisis and recent projections of international organisations, as well as what proposals are formulated as a way of dealing with the pandemic. Our goal is to explore elements of the evolution of the world economy in which COVID-19 creates additional challenges.

It becomes increasingly apparent that we are facing an unprecedented crisis in quantitative and qualitative terms that will profoundly change the global economy and society. According to António Guterres, Secretary-General of the United Nations (UN),¹⁰ our world has entered a rare global health crisis. If we divert funding from humanitarian needs, old diseases will flourish again, more children will become malnourished, and violent extremism will become even more vigorous. Through the voice of Guterres, it is argued that the UN should plan to aid the weakest countries so that humanity can traverse a path of a sustainable and inclusive economy.

Therefore, the global socio-economic system is navigating a multidimensional crisis. In the wider social sphere, the pandemic and the lockdown measures have even caused the reorganisation of social movements, since the spread of the virus has become the primary issue.¹¹ A typical example of this regression is that many national governments in the early stages of the pandemic were led to the cancellation or postponement of democratic elections; this development undoubtedly calls into question the principle of democratic succession of governments, at least in the most advanced countries.¹² As a result, a backsliding is also observed in the field

¹⁰ United Nations, ‘Global Humanitarian Response Plan: COVID-19 United Nations Coordinated Appeal: April–December 2020’ (2020), available at: <https://www.unocha.org/sites/unocha/files/Global-Humanitarian-Response-Plan-COVID-19.pdf> (last accessed 28 June 2021).

¹¹ Cristina Flesher Fominaya, ‘From Classical Syndicalism to Spain’s 15-M Movement’ in Athina Karatzogianni, Michael Schandorf, Ioanna Ferra (eds), *Protest Technologies and Media Revolutions, Digital Activism and Society: Politics, Economy and Culture in Network Communication* (Emerald Publishing Limited, 2020) 197-209.

¹² International Institute for Democracy and Electoral Assistance, ‘Global Monitor of COVID-19’s Impact on Democracy and Human Rights’ (Stockholm: 2020), available at: <https://www.idea.int/sites/>

of promoting human rights, since, as reported by the UN,¹³ a rise in nationalism, authoritarianism, and populism is recorded nowadays, which results in increased xenophobia, gender-based and sexual violence, discrimination against specific communities, and mistreatment of migrants.

The ramifications of the pandemic crisis in promoting human freedom and democracy have led to various social readjustments.¹⁴ Social movements have been forced to adapt to the new environment, with some analysts pointing out that after the lockdowns a new wave of movements will emerge that will be characterised by decentralised reactions which might benefit human freedom worldwide.¹⁵ Overall, the central message communicated by most of these sociological approaches on the consequences of the conjuncture of the pandemic (although we see this crisis not as a ‘conjuncture’ but as a structural mutation, as we will point out in the following sections) is that a new crisis of authority has emerged nowadays. In this crisis, inequalities and social injustice seem to intensify.¹⁶

In terms of the economic base, various international organisations have forecasted the projected output of the post-COVID-19 global economy. According to the Organisation for Economic Cooperation and Development (OECD), the world economy is balancing on a tightrope.¹⁷ Amidst the growing uncertainty in June 2020 when this report was published, two scenarios seemed likely to happen: the double-hit and the single-hit scenario.

- In the double-hit scenario, after a second pandemic wave would have taken place until the end of 2020, lockdowns would return with the world econom-

default/files/publications/COVID19_Global-Monitor-Methodology-and-Codebook.pdf (last accessed 28 June 2021).

¹³ United Nations, ‘COVID-19 and Human Rights: We are All in This Together’ (2020), available at: <https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and> (last accessed 28 June 2021).

¹⁴ Louise Haagh, ‘Rethinking Democratic Theories of Justice in the Economy After COVID-19’ (2020) 7 *Democratic Theory* 110-123.

¹⁵ Such reactions (characterised as ‘pre-modern protest logics’) are banging pot protests, toppling statues symbolising the enemy, the occupation of buildings, and similar spontaneous forms of actions. See the following: Paolo Gerbaudo, ‘The Pandemic Crowd: Protest in the Time of COVID-19’ (2020) 73 *Journal of International Affairs* 61-76.

¹⁶ Geoffrey Pleyers, ‘The Pandemic is a Battlefield: Social Movements in the COVID-19 Lockdown’ (2020) 16 *Journal of Civil Society* 295-312.

¹⁷ OECD, *OECD Economic Outlook, Volume 2020 Issue 1: Preliminary Version* (Paris: OECD Publishing), available at: https://www.oecd-ilibrary.org/economics/oecd-economic-outlook/volume-2020/issue-1_0d1d1e2e-en (last accessed 28 June 2021).

ic output sinking by 7.6% that year before climbing back 2.8% in 2021. As a result, the unemployment rate in OECD countries would double to 10%, and no rapid recovery would occur in 2021.

- In the single-hit scenario, the world would not enter a new wave, with global economic activity dropping by 6% and unemployment reaching 9.2% from 5.4% in 2019. As a result, living standards would fall less sharply than with the double-hit, although five years of income growth would have vanished in the advent of 2021.

It seems that the double-hit scenario has been materialised in 2021. This OECD report also suggested that significant resources in health infrastructure and policies are necessary for actual recovery. First, governments should invest in national health systems while identifying and reducing infections by cooperating in the appropriate international framework for vaccine production. Second, they must incentivise workers and companies to move to not-affected sectors, helping the restructuring of firms, accelerating digitisation, and providing liquidity while preparing for the subsequent financial turmoil. Finally, they need to maintain minimal interest rates by investing in tax policies that promote economic and business activity and the well-being of their citizens.

As far as the International Labour Organisation (ILO) is concerned, the approximate amount of working-hour losses was announced in the report called 'ILO monitor: COVID-19 and the world of work'.¹⁸ The first quarter of 2020 signalled a 5.4% loss of global working hours compared to 2019 (corresponding to 155 million full-time jobs). In the second quarter of 2020, the ILO estimated that the fall would reach 14% worldwide, which is equivalent to 400 million full-time jobs. The ILO suggested a policy framework of four pillars to tackle the COVID-19 crisis. The first pillar concerns the stimulation of the economy and employment through active fiscal and monetary policy, and the second one concerns the support of companies and incomes through social protection policies and tax provisions for businesses. The third one involves the health protection of employees in their working environment, the adoption of new arrangements, such as teleworking, and the prevention of discrimination and exclusion. Finally, the fourth pillar is about strengthening social dialogue, collective bargaining, and labour relations institutions.

¹⁸ ILO, 'ILO Monitor: COVID-19 and the World of Work. Fifth Edition. Updated Estimates and Analysis' (30 June 2020), available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_749399.pdf (last accessed 28 June 2021).

In its ‘Global Economic Prospects’ report, the World Bank investigated three direct possible scenarios for the global economy.¹⁹ The baseline scenario calculated the contraction of global output at 5.2%, the downside scenario at 8%, and the ‘favourable’ upside scenario at approximately 4%. Even in the upside scenario, the global recession of 2020 would be twice as deep as that of 2009. The pandemic crisis would mostly hit the developed nations, with developing and emerging economies also facing the broad consequences of the disruption of global value chains. According to the report, the pandemic crisis has dealt a devastating blow to an already sensitive and relatively anaemic global economy. The applied restrictions and lockdowns, which reduce the economic activity of consumers and producers, lead the global socio-economic system towards recession. The World Bank report included the strengthening of the health care systems and the short-term stimulation of economic activity and employment in the immediate policy measures. In the long-term, governments and international organisations would need to promote reforms to constrain some of the repercussions of the pandemic, improve the business environment, and expand investment in education and public health.

In the World Economic Outlook (WEO) report, the International Monetary Fund (IMF) presented COVID-19 as a ‘crisis like no other’, noting that the impact is acute on low-income households and interrupts the significant progress made in battling extreme poverty. The WEO argued that making an accurate projection is highly uncertain due to the timespan of applied quarantine, the subsequent voluntary social distancing, the ability of the displaced workers to secure employment, and the security measures within firms. The latest WEO revised the predictions of the impact of COVID-19 for the worse, since it forecasted that the recovery would be more gradual than the initial projections. In 2021, global growth would reach 5.4%, which is 6.5% less than the pre-COVID-19 forecast of January 2020 (Table 1).

Table 1: World Economic Outlook growth projections, real GDP, annual per cent change, according to the IMF.²⁰

	2019	2020 (projection)	2021 (projection)
World output	2.9	-4.9	5.4
Advanced economies	1.7	-8.0	4.8
United States	2.3	-8.0	4.5

¹⁹ World Bank, ‘Global Economic Prospects’ (Washington, DC: The World Bank, 2020).

²⁰ Ibid.

Euro Area	1.3	-10.2	6.0
Germany	0.6	-7.8	5.4
France	1.5	-12.5	7.3
Italy	0.3	-12.8	6.3
Spain	2.0	-12.8	6.3
Japan	0.7	-5.8	2.4
United Kingdom	1.4	-10.2	6.3
Canada	1.7	-8.4	4.9
Other Advanced Economies	1.7	-4.8	4.2
Emerging Markets and Developing Economies	3.7	-3.0	5.9
Emerging and Developing Asia	5.5	-0.8	7.4
China	6.1	1.0	8.2
India	4.2	-4.5	6.0
ASEAN-5	4.9	-2.0	6.2
Emerging and Developing Europe	2.1	-5.8	4.3
Russia	1.3	-6.6	4.1
Latin America and the Caribbean	0.1	-9.4	3.7
Brazil	1.1	-9.1	3.6
Mexico	-0.3	-10.5	3.3
The Middle East and Central Asia	1.0	-4.7	3.3
Saudi Arabia	0.3	-6.8	3.1
Sub-Saharan Africa	3.1	-3.2	3.4
Nigeria	2.2	-5.4	2.6
South Africa	0.2	-8.0	3.5
Low-Income Developing Countries	5.2	-1.0	5.2

Table 1 shows the sum of the WEO growth projections for the different countries and regions across the planet. Growth in developed countries was projected at -8% for 2020, a significantly more negative forecast than in April 2020.²¹ This downward revision suggested a slower recovery for fear of new measures due to the spread of the pandemic. The WEO predicted that growth in developed countries in 2021 would reach around 4.8%. It also referred to the fact that all world regions would perform poorly, but with fluctuations due to the different sectoral

²¹ International Monetary Fund (IMF), 'World Economic Outlook: The Great Lockdown' (Washington, DC: IMF April 2020).

structure of economies. China would recover faster than other economies after the recession in the first quarter of 2020, mainly due to political stimulus. India was expected to shrink after the extended lockdown, while the recession for 2020 in Latin America would reach 10%. The WEO predicted that the growth rate of 2021 for the emerging market and developing economies would increase by 5.9%, where China's growth of 8.2% would be decisive. Overall, it seems that the projections made were largely confirmed, although, in some cases, the crisis appears to have hit various economies harder compared to the initial estimations.²²

Concerning policy implications, the WEO of the IMF underlined that multilateral cooperation is essential. Governments should collaborate to solve trade and technological tensions that might hinder quick recovery. At the same time, they must invest in the reduction of gas emission that was achieved during the lockdowns, implementing their commitments to slow down climate change. According to this report by the IMF, the global community must ensure that mechanisms are in place to prevent the recurrence of such a disaster by creating global stockpiles of essential supplies and protective equipment, funding related research, and supporting public health systems.

The last report chosen for discussion, as it conveys an actual policy debate, involves the conclusions from the Special meeting of the European Council held between 17 and 21 July 2020.²³ The goal of the multi-day negotiations was to implement emergency measures to protect the health of the European citizens and prevent the economy from collapsing. After declaring the COVID-19 crisis a 'challenge of historic proportions', the European Union (EU) leaders stated in the conclusions that, although maximum attention is still needed in the sanitary situation, the emphasis is now shifting towards reducing the socio-economic catastrophe. In this context, European leaders decided to activate surprisingly large grants and loans through the instruments and programmes of the Multiannual Financial Framework (MFF) and a specific Recovery effort under Next Generation EU (NGEU), as an attempt to transform the EU towards the European Green Deal, the digital revolution, and resilience. According to the conclusions, these programmes

²² Anastasia Arkhipova, Valentina Turkova, Olga Kuznetsova, 'World Economy Development Forecast During the COVID-19 Pandemic' 751 (Presented at the IOP Conference Series: Earth and Environmental Science, 2021).

²³ European Council, 'Special Meeting of the European Council (17, 18, 19, 20 and 21 July 2020) –Conclusions' (Brussels, 21 July 2020), available at: consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf (last accessed 28 June 2021).

are significant because the impact of the crisis is far-reaching, and, therefore, Europe must act to protect the most affected regions and sectors. Among other things, the programmes can and should promote research, innovation, and, primarily, the digital transformation and competitiveness of small and medium-sized enterprises (SMEs).

From a concluding perspective, international organisations have foreseen an extraordinary fall in the global output. For 2021, they did not expect global growth surpassing the magnitude of the preceded recession; a trend reaffirmed in mid-2021 when these lines were written. Inequality and poverty are to be reinforced, and if governments do not act quickly, older diseases may re-emerge, together with political extremism. These international organisations also suggest necessary policy responses, not only of a direct ‘fire-fighting’ reach but also of long-term directions for improving the business environment. At the business level, we observed policy responses such as promoting research, innovation, and digital transformation to enhance competitiveness, and emphasising SMEs, which have been hit hard by the current pandemic.

Table 2: Sum of the suggested policy directions by international organisations after the COVID-19 pandemic.

Pillar of policy response	Required measures
Health	<ul style="list-style-type: none"> - Invest in national health systems while identifying and reducing infections by cooperating in the appropriate international framework for vaccine production. - Strengthen health care systems. - Build mechanisms to prevent the recurrence of such a disaster by creating global stockpiles of essential supplies and protective equipment, funding related research, and supporting public health systems.
Business	<ul style="list-style-type: none"> - Incentivise firms to move to not-affected sectors. - Help the restructuring of firms. - Accelerate digitisation. - Support companies and incomes through social protection policies and tax provisions. - Promote research, innovation, and the digital transformation and competitiveness of enterprises and SMEs.

Workers	<ul style="list-style-type: none"> - Incentivise workers to move to not-affected sectors. - Protect the health of employees in their working environment. - Adopt new arrangements, such as teleworking, and prevent discrimination and exclusion.
Macroeconomic environment	<ul style="list-style-type: none"> - Provide liquidity while preparing for the subsequent financial turmoil. - Maintain minimal interest rates by investing in tax policies that promote economic and business activity and the well-being of citizens. - Stimulate the economy and employment through an active fiscal and monetary policy.
Long-term directions	<ul style="list-style-type: none"> - Improve the business environment. - Expand investment in education and public health. - Invest in multilateral cooperation. - Invest in the reduction of gas emission achieved during the lockdowns by implementing commitments to restrict climate change. - Improve the development potential of the most affected regions and sectors.

Table 2 sums up the policy responses suggested by these international organisations; it is worth mentioning that —as we have shown by presenting recent, significant sociological approaches— the path to achieve enhanced social justice is not through the centralisation of political means but by stimulating the further participation of civil society.²⁴ Overall, the new era that seems to arise reframes the critical questions concerning tomorrow’s global development: poverty versus wealth, equality versus inequality, real versus financial economy, freedom versus control, economy versus humanity and nature, and uniformity versus diversity.²⁵

Transformations of the Global Development Modus Operandi

How can we understand and interpret these developments based on the analytical equipment provided by economic science to proceed with accurate future predic-

²⁴ Donatella Della Porta, ‘How Progressive Social Movements Can Save Democracy in Pandemic Times’ (2020) 12 *Interface: A Journal for and about Social Movements* 355-358.

²⁵ Charis Vlahos, Nikolaos Deniozos, Demosthenes Chatziniolaou, ‘Global Crisis, Innovation and Change Management: Towards a New Systemic Perception of the Current Globalization Restructuring’ (2018) 11 *International Business Research* 9-29.

tions? According to Schumpeter,²⁶ the phenomena of imbalance caused by entrepreneurial innovation tend to self-regulate and cease their accumulation, and this continuous evolutionary adaptation creates the paradox of ‘stable instability’ of the global system. Thus, to use the words of Schumpeter, there is instability in the ‘System’ but no economic instability of the ‘Order’.

Global Change in Evolutionary Context

Over the last years, several analysts and policymakers have introduced concepts that attempt to interpret global change. They focus on different phases of the evolution of the world economy, presenting various explanatory schemes that aim to understand and predict history. The theoretical frameworks that we have distinguished for the needs of this study are, in chronological order of appearance in the literature, the ‘techno-economic paradigm shift’, the ‘endless transition’, the ‘fourth industrial revolution’, and the ‘new globalisation’; it is worth mentioning that we have employed an elliptical and critical perspective, picking specific theorisations that we deemed the most useful along the way. The passages we use below are those in which these notions first appeared.

(a) Techno-economic paradigm shift.

In the paper published in 1983 under the title ‘Structural Change and Assimilation of New Technologies in the Economic and Social Systems’, C. Perez introduces the concept of ‘techno-economic paradigms’:

We suggest that the upswing of a Kondratiev long wave begins when a harmonic complementarity has been achieved, through adequate social and institutional innovations, between the “technoeconomic paradigm”, which emerged and developed in the previous Kondratiev peak and downswing, and the socio-institutional climate. This unleashes the swarming process and generates the wave of infrastructural investment that induces the attainment of full growth potential, through accelerated diffusion and ultimate generalisation of the paradigm. It is a period of bandwagon effects, when one after another all productive units—and even social activities of all kinds—tend to apply what is then generally considered as the ‘optimal or ideal form of productive organisation.’²⁷

²⁶ Joseph Schumpeter, ‘The Instability of Capitalism’ (1928) 38 *The Economic Journal* 361-386.

²⁷ Carlota Perez, ‘Structural Change and Assimilation of New Technologies in the Economic and Social Systems’ (1983) 5 *Futures* 357-375.

In this theoretical perspective, Perez uses the cyclical behaviour of the capitalistic system of Schumpeter²⁸ and the long waves of Kondratiev²⁹ that correspond to widespread depressions experienced every five or six decades. In contrasting these two works, Perez argues that Schumpeter laid the foundations of cyclical analysis by using innovation as the causation mechanism, contrary to Kondratiev, who established the idea of long waves as a measurable manifestation of the harmonic or disharmonious behaviour of the socio-economic and institutional system. Concerning the periodic adjustment followed by the global economy, Perez hypothesises the long waves as successive modes of development, which correspond to specific technological styles. These 'styles' or 'paradigms' denote the optimal productive organisation developed to answer the current and relatively stable global dynamics.

In this context, Perez implies that the post-war era marked the solidification of a specific modus of development in the leading industrial countries, which created the necessary harmonisation between the institutional framework and the technological style. For her, a structural crisis or a depression, according to the Kondratiev long wave of development, is a disruption between the dynamics of the economic sub-system and the socio-institutional framework. It is a painful phase during which a dynamic harmony is re-established both in the parts and the whole of the socio-economic system.

Therefore, Perez does not focus on the ways the institutional arrangements are structured periodically but penetrates the productive and organisational processes. Today, after the current pandemic crisis, some scholars point at the insertion of our world into a 'sixth Kondratiev wave',³⁰ where medical, additive, nano, information, and cognitive technologies are expected to play a dominant role.³¹

(b) Endless transition.

In 1998, H. Etzkowitz and L. Leydesdorff introduced the concept of 'endless transition'. The following passage summarises the content and potential reach of this theoretical perspective:

²⁸ Joseph Schumpeter, *Business Cycles: A Theoretical, Historical and Statistical Analysis of the Capitalist Process* (New York: McGraw-Hill, 1939).

²⁹ Nikolai Kondratieff, 'The Long Waves in Economic Life' (1935) 17 *The Review of Economics and Statistics* 105-115.

³⁰ After the wave of information technology that started around the 1990s.

³¹ Leonid Grinin and Andrey Korotayev, 'Covid-19 Pandemic, Geopolitics, and Recession' (June 2020) Working Paper 4 (Moscow: International Center for Education and Social and Humanitarian Studies).

The linear model [of innovation] is currently being supplanted by new ideas and alternative models based upon interdisciplinary and spiral links between technology and science [...] Beyond the “endless frontier” of linear models lies a continuous series of experiments on the relationship between science, industry and government in creating the conditions for future innovation: the ‘endless transition.’ Although this transition is an international phenomenon, it does not follow a single course. Nevertheless, the goal is the same: to build upon existing resources so as to create niches of technological innovation and secure a place within the division of labour in the global economy.³²

Etzkowitz and Leydesdorff formulated the ‘endless transition’ approach as an extension of V. Bush’s ‘endless frontier’,³³ which constituted the ‘conceptual compass’ for the post-war articulation of science policies. Bush argued that the US government and industry are directly dependent upon universities and research institutes to expand the basic scientific frontiers and foster trained scientific investigators. Etzkowitz and Leydesdorff underlined the constant repositioning of the role of sciences in society. The reason is that the boundaries between the public and the private sphere, science and technology, and university and business have become increasingly blurred.

By presenting the need to conceptualise a ‘spiral model of innovation’, which they had previously introduced as the ‘triple helix’ model,³⁴ the authors argued that the State’s role, for developed and developing nations alike, is crucial in the design of technology and science policy. In this context, the former Soviet Union countries and Central Europe are not the only economies in transition: All socio-economic systems are facing a crisis of global transition to a knowledge-based economy. The ‘endless transition’ means that the complex dynamics of social relations between the different institutionalised spheres (government-academia-industry), which are ‘locked’ in a regime of technological innovation and organisational reform, come to the fore.

Although Etzkowitz and Leydesdorff did not describe the overall change of the global system, and even though this concept of endless transition has not been uti-

³² Henry Etzkowitz and Loet Leydesdorff, ‘The Endless Transition: A “Triple Helix” of University-Industry-Government Relations: Introduction’ (1998) 3 *Minerva* 203-208.

³³ Vannevar Bush, *Science, the Endless Frontier; A Report to the President on a Program for Postwar Scientific Research* (Washington, DC: Office of Scientific Research and Development, 1945).

³⁴ Henry Etzkowitz and Loet Leydesdorff, ‘The Triple Helix -- University-Industry-Government Relations: A Laboratory for Knowledge Based Economic Development’ (1995) 14 *EASST Review* 14-19.

lised and enriched today, we believe that it has significant interpretive power. Developments in the field of technological innovation, as the authors report, are due to fundamental changes at the organisational and institutional level, which can no longer be perceived with a linear and mechanistic interpretation.

(c) Fourth industrial revolution.

K. Schwab, Founder and Executive Chairman of the World Economic Forum, is considered to have coined (or, more accurately, popularised and described thoroughly)³⁵ the term ‘fourth industrial revolution’ in an article published in foreign affairs in 2015³⁶ and later at the Davos meeting that took place in 2016.³⁷ Schwab introduced this theoretical framework with the following words:

We stand on the brink of a technological revolution that will fundamentally alter the way we live, work, and relate to one another. In its scale, scope, and complexity, the transformation will be unlike anything humankind has experienced before. We do not yet know just how it will unfold, but one thing is clear: the response to it must be integrated and comprehensive, involving all stakeholders of the global polity, from the public and private sectors to academia and civil society. The First Industrial Revolution used water and steam power to mechanise production. The Second used electric power to create mass production. The Third used electronics and information technology to automate production. Now a Fourth Industrial Revolution is building on the Third, the digital revolution that has been occurring since the middle of the last century. It is characterised by a fusion of technologies that is blurring the lines between the physical, digital, and biological spheres.³⁸

A central concept in perceiving the unfolding fourth industrial revolution is the evolution of the so-called ‘cyber-physical systems’,³⁹ meaning the physical, biolog-

³⁵ The term Industry 4.0 preceded the concept of the ‘fourth industrial revolution’ in a high-tech strategy project of the German government to promote the computerisation of manufacturing. BMBF-Internetredaktion, ‘Future Project Industry 4.0 - BMBF’ (Zukunftsprojekt Industrie 4.0 - BMBF) (2016), available at: <https://www.bmbf.de/de/zukunftsprojekt-industrie-4-0-848.html> (last accessed 28 June 2021) (in German).

³⁶ Klaus Schwab, ‘The Fourth Industrial Revolution’, (*Foreign Affairs*, 12 December 2015), available at: <https://www.foreignaffairs.com/articles/2015-12-12/fourth-industrial-revolution> (last accessed 28 June 2021).

³⁷ Id., *The Fourth Industrial Revolution* (New York: Crown Business, 2016).

³⁸ Schwab (no 34).

³⁹ Helen Gill, ‘A Continuing Vision: Cyber-Physical Systems’ (Annual Carnegie Mellon Conference on Electricity Industry. Energy Systems: Efficiency, Security, Control, 10-11 March 2008).

ical, and engineered systems whose behaviour is a fully integrated hybridisation of computational (logical) and physical activity. Schwab notices that the impact of these digital technologies is going to manifest radically because of the increased automation.

By acknowledging the overarching effect of the fourth industrial revolution in society and economy, Schwab analyses (1) the emerging opportunities and threats, (2) the impact in business, (3) in government, (4) in people, and (5) in those elements that they are going to shape the near future. These five points are analysed and described as follows:

1. The possible increase of incomes and the diffusion of products and services at virtually no cost directly improves the consumer's life worldwide. However, as automation substitutes manual labour gradually, an exacerbation of inequality and social tensions between the 'high-skill/high-pay' and the 'low-skill/low-pay' workers is highly possible.
2. Even the best-connected and well-informed companies cannot predict the changes brought by the acceleration of innovation and the velocity of disruption. Therefore, well-established incumbents are disrupted faster because of the newcomers who have access to all kinds of digital platforms, which changes the demand-side drastically by giving new options to the consumers. The simple digitisation gives its place to innovation based on the combination of technologies.
3. Citizens begin to engage directly with their governments, which now have new digital capabilities to increase their control and repressive power. As a result, legislators and regulators need to continuously adapt to the fast-changing environment to understand what they are regulating by collaborating closely with businesses and civil society. At the same time, today's State conflicts become increasingly 'hybrid', combining traditional battlefield techniques with elements previously associated with non-State actors.
4. Developments in biotechnology and artificial intelligence are redefining what it means to be human by causing us to redefine our moral and ethical boundaries. However, the 'uncritical' integration of technology can lead to losing some of our 'quintessential' human capabilities.
5. Schwab concludes that we need to grasp the opportunity and direct this new epoch toward our shared goals and values. We must shape a future by putting people first and empowering them. The current era might lead to the 'robotisa-

tion' of humanity, but it can also drive our future towards a moral consciousness based on a shared sense of destiny.

(d) New globalisation.

Ch. Vladoš notes that the outgoing period of globalisation has matured structurally, gradually giving its place to the new globalisation.⁴⁰ Arguing that the mutating crisis of capitalism that has been 'lurking' over the last years is structural and not superficial or simply 'conjunctural', and after periodising the phases of development of the post-war world economy, Vladoš expresses this approach using the following words:

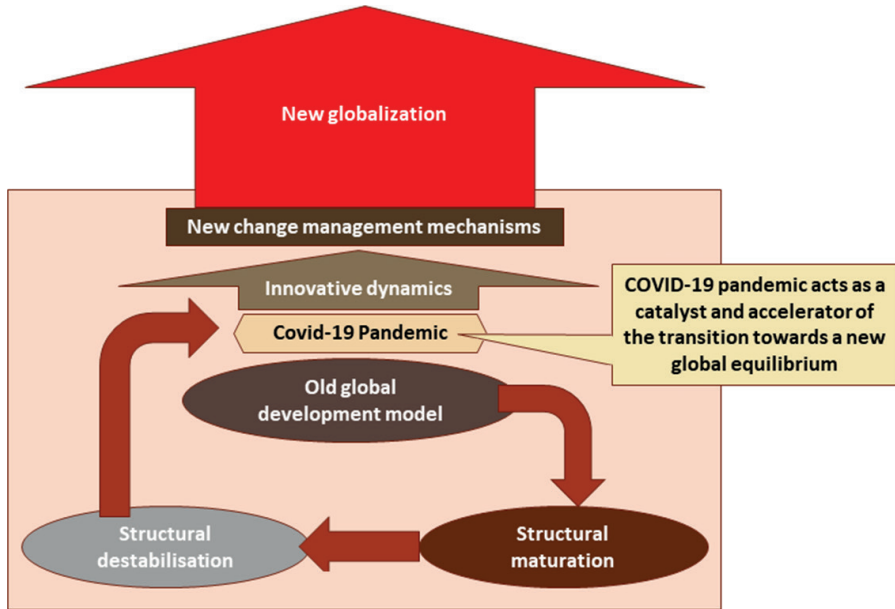
Everything shows that, through the crisis, the 'new globalisation' is trying to emerge and take shape, with significant liquidity to this day, with a particularly challenging 'childbirth', with the future structural outline still unclear, and in intense socio-economic and political upheavals and shocks that are articulated and intertwined now on a planetary level. [...] Today, the overcoming of crisis and the restructuring of the global system, that is, the insertion into a trajectory of a new and stable model of development, requires a leap of innovation aligned and implemented at all levels. Behind the necessity of this 'innovative transcendence' arises inevitably the problem of designing requisite new methodologies and mechanisms of change management, which will enable and make possible this transition.⁴¹

This evolutionary step of the world economy described in the new globalisation approach comes after the 1945-1973 first post-war phase, the 1973-1980 'pre-globalisation' phase, and 1980-2008 globalisation phase. The structure of the international regime, the central model of crisis and development, and the dominant type of business innovation are the three interpretive tools that Vladoš uses to determine the lifecycle of the distinct phases. In this sense, the current crisis of the COVID-19 pandemic accelerates and exacerbates some of the evolutionary trends that have been evident in the last decade (Figure 1).

⁴⁰ Charis Vladoš, 'The Phases of the Postwar Evolution of Capitalism: The Transition from the Current Crisis into a New Worldwide Developmental Trajectory' (2019) 18 *Perspectives on Global Development and Technology* 457-488.

⁴¹ Charis Vladoš, *Global Crisis, Innovation and Change Management: The Stra.Tech.Man Perspective (Παγκόσμια Κρίση, Καινοτομία Και Διαχείριση Αλλαγής: Η Προσέγγιση Stra.Tech.Man)* (Athens: Kritiki Publications, 2017) 25-26 (in Greek).

Figure 1: COVID-19 accelerates evolutionary trends that were apparent during the past decade.



The COVID-19 pandemic crisis comes as a catalyst and accelerator of the transition towards a new global equilibrium. This crisis is directly involved in the maturation and destabilisation of the old development model. What is still unclear is how to construct the necessary change management mechanisms to allow for a broad leap of innovation globally. However, besides innovation and change management, this approach suggests that the sought-after structural triangle of exiting the crisis and the ‘new globalisation’ must be built on a balanced democratic multipolarity, a new perception of innovative capitalism, and organic innovation within enterprises. The new globalisation can create favourable conditions for a growing number of people on the planet, as with the previous phase of globalisation, if the following conditions apply:

- I. The cooperative hegemony of the Western partners would be renewed by repositioning the geostrategic role of the US in today’s multipolar world⁴² and by strengthening and deepening the institutions of the EU. However, today we observe a growing challenge to Western institutions, as these were built after

⁴² Jury K. Krasnov, Anna U. Solovieva-Oposhynskaya, Victoria V. Artiukh, ‘Interstate Relations between Russia and Cyprus amid Geopolitical Contradictions in a Multipolar World’ (2019) 31 *The Cyprus Review* 237-261.

the Bretton Woods (International Monetary Fund, World Bank) mainly from emerging economies such as the BRICS.⁴³ Moreover, the return of past geopolitical tensions and the outbreak of new ones, such as Turkey's questioning of the sovereign rights of Cyprus and Greece in maritime areas of the Eastern Mediterranean,⁴⁴ exacerbate the instability of Western institutions and weaken their dominance over the emerging multipolar regime.⁴⁵

- II. A new model of rebalanced capitalism would prevail, which would be refocused on the 'real economy' by cultivating liberalism from a rebalanced and robustly innovative perspective. This new model would require continuous restructuring of the capitalist productive and managerial potential, repositioning consumption patterns on a global scale, and mitigating the global financial bubble.
- III. Innovative firms/organisations progressively perceive that innovation is 'organic' rather than mechanistic. Nowadays, the hierarchical and functional barriers within the innovative firms/organisations cease to exist, while the holistic integration into the external environment becomes increasingly and directly necessary. Thus, partial strategic, technological, and managerial priorities of the firms/organisations must give way now to the demand for complete integration in terms of strategy, technology, and management (the 'Stra.Tech.Man' synthesis, as phrased by the author) in an increasingly complex, evolving external environment.

From a neo-Schumpeterian perspective,⁴⁶ Vladoš focuses on the organically perceived internal environment of the firm. Efficient change within the firm requires a dialectical mindset. The modern manager of change must clarify the main 'physiological' goals of development, before any action, in terms of internal synthesis of strategy, technology, and management (Stra.Tech.Man) of the different actors in all functional and spatial levels. Every socio-economic organisation must comprehend its specific 'physiological' strengths and weaknesses based on the synthetic view

⁴³ Charis Vladoš, Dimos Chatzinikolaou, 'BRICS and Global Restructuring: Notes for the Near Future' (2020) 6 *Management and Economics Research Journal* 1-7.

⁴⁴ Michalis Kontos, 'Power Games in the Exclusive Economic Zone of the Republic of Cyprus' (2018) 30 *The Cyprus Review* 51-70; Zenonas Tziarras, 'The Eastern Mediterranean in Transition: Multipolarity, Politics and Power' (2017) 29 *The Cyprus Review* 259-263.

⁴⁵ Niall Duggan, 'BRICS and the Evolution of a New Agenda within Global Governance' in Marek Rewiżorski (ed.), *The European Union and the BRICS: Complex Relations in the Era of Global Governance* (Cham, Switzerland: Springer 2015) 11-25.

⁴⁶ Dimos Chatzinikolaou, Charis Vladoš, 'Schumpeter, Neo-Schumpeterianism, and Stra.Tech.Man Evolution of the Firm' (2019) 5 *Issues in Economics and Business (International Economics and Business)* 80-102.

of Stra.Tech.Man, which lays the foundations for the opportunities and threats to arise in today's challenging global economy.⁴⁷

This unfolding reality calls for an understanding that every socio-economic organisation (of every size and reach) is like a 'tree', while the primary purpose of managing change is to improve the survival potential through innovation. In this profound context of crisis, a sensitive 'gardening' (holistic policies) is necessary for the 'living organisation' to survive and grow.

Possible Corridors in the Post-COVID-19 Era

As we have seen, many scholars have analysed the 'behaviour' of the world economy, focusing on the different structural characteristics that drive change. These approaches show that the global crisis and restructuring are expected processes in the evolution of capitalism (Table 3).

Table 3: Constituents of global change, according to different conceptions.

Mode of global evolutionary change	Timespan	Must happen for change to occur
Techno-economic paradigm shift	It requires five to six decades, based on the Kondratiev waves. Continuation is not defined, at least in the initial contribution.	A wave of infrastructural investment that induces the attainment of full growth potential must occur through accelerated diffusion and ultimate generalisation of the paradigm.
Endless transition	Endless.	The various actors need to build upon existing resources to create niches of technological innovation and secure a place within the division of labour in the global economy.
Fourth industrial revolution	Until the 'fifth industrial revolution'.	A fusion of technologies that blurs the lines between the physical, digital, and biological spheres must occur.
New globalisation	Until it arrives, grows, and then declines to give place to the new phase of global development.	A leap of innovation, aligned and implemented at all levels, must be materialised. Behind the necessity of this 'innovative transcendence' the problem of designing requisite new methodologies and mechanisms of change management, which will enable and make possible this transition, inevitably arises.

⁴⁷ Charis Vlahos, 'On a Correlative and Evolutionary SWOT Analysis' (2019) 12 *Journal of Strategy and Management* 347-363.

Undoubtedly, the COVID-19 health crisis is a ‘fire’ that must be extinguished immediately. Needless to say, the socio-economic ‘flora and fauna’ of global capitalism will never be the same again after this ‘extinguishing of fire’. The transition towards a new techno-economic paradigm, the fourth industrial revolution, the knowledge-based economy, and the new globalisation will accelerate after this ‘fire’. These global transformation approaches successfully predict continuous crisis phenomena in capitalism that give rise to new species and socio-economic environments. They may not predict outbreaks of health emergencies accurately, but the evolutionary outline of these approaches can show how to deal with global evolutionary transformations, such as the ‘stroke’ of the COVID-19 pandemic.

The Current ‘Stroke’ of the Global Socio-economic System

As is well known in medical science, a stroke is caused when the bloodstream breaks off abruptly in a part of the brain.⁴⁸ A stroke occurs when a blood vessel that carries oxygen to the brain is blocked, causing sudden damage to brain tissue. Without a blood supply, the brain cells gradually die, and some sort of disability occurs depending on the area of the brain affected. Thus, the related symptoms arise and settle speedily and uncontrollably. The consequences of a stroke are often permanent because dead nerve cells cannot be replaced.

If the acute phase of the stroke is overcome, the interest shifts from taking necessary measures to provide vital support to more extensive and focused recovery efforts. The long-term rehabilitation objectives depend on the severity of the initial stroke, the patient’s age, and their overall state of health. The rehabilitation program usually consists of various exercises and therapies, including neuro-muscle retraining, ‘kinetic’ learning and control, and functional activities that focus on re-learning necessary self-service skills.

The reader must be wondering why we are writing this since we are not doctors in medicine and while our thematic focus is on the context of socio-economic sciences. As socio-economic scientists, we cannot find a more appropriate metaphor⁴⁹ to describe what is happening in the world economy nowadays.

⁴⁸ Peter H. Collin, *Dictionary of Medicine* (2nd edn, Chicago, IL; London, UK: Taylor & Francis, 1998).

⁴⁹ For a discussion on the use of metaphors in social sciences, the following works must be considered: George Lakoff, Mark Johnson, *Metaphors We Live By* (Chicago, IL: University of Chicago Press, 1990); Deirdre McCloskey, *The Rhetoric of Economics* (Madison, WI: University of Wisconsin Press, 1998).

Today, we are estimating that global capitalism is dealing with a ‘stroke’: we are on the verge of a peculiar and very harsh global stagflation crisis,⁵⁰ accompanied by the synchronous rise in unemployment and inflation. This world crisis is undoubtedly more onerous than those that occurred during the past decades and probably even more significant than the crisis of 1929, given its current, immediate, and unavoidable global synthesis and diffusion.

At the same time, available data prevent us from hoping for an easy ‘V-type’ of recovery and development, especially for the less powerful and competitive economies. We foresee a significant degradation of productive ‘tissues’ in several relatively vulnerable socio-economic environments, both in local and national terms. An ‘L-type’ development seems much more likely in many cases of less competitive (both local and national) economic systems.⁵¹ It appears that we are facing the horizon of a *sui generis* situation of simultaneous collapse in supply and demand, with considerable price falls in some markets in a first phase (oil market, for example), which will probably be followed by significant price increases in many sectors worldwide due to a decline in economic activity. These events will bring substantial and adverse multiplier effects.⁵²

Some analysts argue that COVID-19 accelerates the fourth industrial revolution and digital transformation, causing the rapid disappearance of several ‘traditional’ professions and the deepening of inequality by hindering the war against extreme poverty.⁵³ Others see this crisis as an occasional upset of the past equilibrium that will eventually end, allowing everything to return to ‘normal’.⁵⁴

⁵⁰ Nicos Christodoulakis, *How Crises Shaped Economic Ideas and Policies* (Cham, Switzerland: Springer International Publishing, 2015).

⁵¹ David Rodeck, ‘Alphabet Soup: Understanding the Shape of a COVID-19 Recession’ (*Forbes Advisor*, 8 June 2020), available at: <https://www.forbes.com/advisor/investing/covid-19-coronavirus-recession-shape/> (last accessed 28 June 2021).

⁵² Arshian Sharif, Chaker Aloui, Larisa Yarovaya, ‘COVID-19 Pandemic, Oil Prices, Stock Market, Geopolitical Risk and Policy Uncertainty Nexus in the US Economy: Fresh Evidence from the Wavelet-Based Approach’ (2020) 70 *International Review of Financial Analysis*.

⁵³ Luis Bonilla-Molina, ‘Covid-19 on Route of the Fourth Industrial Revolution’ (2020) 2 *Postdigital Science and Education*, available at: <https://doi.org/10.1007/s42438-020-00179-4> (last accessed 28 June 2021); Nicola L. Bragazzi, ‘Digital Technologies-Enabled Smart Manufacturing and Industry 4.0 in the Post-COVID-19 Era: Lessons Learnt from a Pandemic’ (2020) 17 *International Journal of Environmental Research and Public Health*; György Czifra, Zsolt Molnár, ‘Covid-19 and Industry 4.0’ (2020) 28 *Research Papers Faculty of Materials Science and Technology Slovak University of Technology* 36-45.

⁵⁴ According to the Director-General of the World Health Organisation (WHO), we are not going back to the ‘old normal’. The pandemic crisis has already changed the way we live, and part of adjusting to the ‘new normal’ is finding ways to live our lives safely. WHO, ‘WHO Director-General’s Opening Remarks

However, the current global change analysis can be better understood through a structural rather than a ‘conjunctural’ perspective. The structural view avoids interpretations that suggest any possibility of return to the past. In the structural conception, the disturbance of any macro-meso-micro socio-economic system is more of an endogenous rather than exogenous nature. At the same time, the upset of the balance is evolving in a natural and organic pattern, rather than being an unusual and occasional coincidence. In the structural perspective, the crisis is non-absorbable by the existing system, which leads to an entirely new dynamic equilibrium.⁵⁵

In this context of global structural mutation, the very perception we hold of aggregate demand and supply and their balance in the international and national political economy must be repositioned. It seems that we are standing in front of a new phase where we must overcome the past ‘confidence’ in austerity in economic policy⁵⁶ by realising that ‘austerity’ for the post-COVID-19 era means a new policy mix that emphasises the rapid adaptation and strengthening of the supply side. At the same time, we must approach the inherent creation of crises in capitalism⁵⁷ (financial and broader socio-economic) from a realistic perspective,⁵⁸ which implies that we cannot ignore the limitations in terms of public spending. Therefore, we believe that a new global era leading to more significant benefits for a growing number of people across the world requires a new approach to the ‘progressive’ policy, which is aimed at fostering innovation and accelerating structures that favour investment confidence simultaneously without making choices that would jeopardise the fiscal and monetary stability at the national and global levels.⁵⁹

Although the current pandemic crisis of COVID-19 occurred as an exogenous event, it manifested itself in the existing structures of the global system by transforming them drastically. In this sense, following the immediate health crisis which

at the Media Briefing on COVID-19 - 23 July 2020’, available at: <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---23-july-2020> (last accessed 28 June 2021).

⁵⁵ Charis Vlados & Ors, ‘Towards an Evolutionary Understanding of the Current Global Socio-Economic Crisis and Restructuring: From a Conjunctural to a Structural and Evolutionary Perspective’ (2018) 9 *Research in World Economy* 15-33.

⁵⁶ Mark Blyth, *Austerity: The History of a Dangerous Idea* (Oxford University Press, 2013).

⁵⁷ Adam Tooze, *Crashed: How a Decade of Financial Crises Changed the World* (New York: Penguin, 2018).

⁵⁸ Andreas Andrikopoulos, Christos Nastopoulos, *Crisis and Realism* (Κρίση και Ρεαλισμός) (Athens: Propobos Publications, 2015) (in Greek).

⁵⁹ See global governance for the post-COVID-19 era: David L. Levy, ‘COVID-19 and Global Governance’ (2021) 58 *Journal of Management Studies* 562-566.

must be addressed directly with the development of vaccines,⁶⁰ the socio-economic problem the pandemic causes is an issue of systemic nature.⁶¹ The main feature of contemporary global capitalism is that both positive and negative outcomes are transmitted rapidly in the form of chain reactions, recalibrating the structure and dynamics of the system irreversibly. In the next section, the development and underdevelopment dynamics displayed by the Cypriot economy are examined to indicate the challenges emerging in the post-COVID-19 era for the various socio-economic systems.

Cyprus' Socio-economic System and the Challenges for the Post-COVID-19 Era

Cyprus is a notable case of a country that seems to be facing structural weaknesses in terms of the necessary adaptation to this emerging socio-economic environment. Under a long history of geopolitical uncertainty due to the illegal possession of about 37% of its territory by the Turkish armed forces,⁶² Cyprus has made significant strides, such as, most notably, its entry into the EU in 2004. However, the Cypriot socio-economic system—an organic part of the EU and the Eurozone—nowadays appears relatively insufficient in structural-competitiveness terms. As is the case with other southern European countries, the previous global crisis exacerbated this trend.⁶³

According to various analysts focusing mainly on the macroeconomic and structural dimensions of the Cypriot economic crisis, the problem lies in the law abuses primarily by the banking system and the risks posed by the derived lack of confidence in the banking institutions.⁶⁴ Nevertheless, compared to Greece (with which

⁶⁰ Emily Lockey, 'COVID-19: The Race for a Vaccine' (2020) 21 *Journal of the Renin-Angiotensin-Aldosterone System* 1-3.

⁶¹ Milan Zeleny, *Autopoiesis: A Theory of Living Organizations* (New York: Elsevier Science, 1980).

⁶² Thekla Kyritsi, Nikolaos Christofis (eds), *Cypriot Nationalisms in Context* (London: Palgrave Macmillan, 2018).

⁶³ Kjell Hausken, Jonathan W. Welburn, 'Assessing the 2010–2018 financial crisis in Greece, Portugal, Ireland, Spain, and Cyprus' (2020) *Journal of Economic Studies*, available at: <https://doi.org/10.1108/JES-08-2020-0406> (last accessed 28 June 2021).

⁶⁴ Nicos Pavlides, 'Cypriot Economic Crisis – Crime and Punishment: Great Expectations or Realistic Possibility?' (2015) 27 *Cyprus Review* 249-290; Petros Lois, Athina Christodoulou, 'Impact of the Global Financial Crisis and Resulting Bail-In on the Audit of Cypriot Banks' (2019) 31 *Cyprus Review* 79-118; Elisavet Constantinou, Nikolaos Yfantopoulos, John Yfantopoulos, 'The Economic Crisis, the Memorandum and the Reforms in the Health System of Cyprus' (2020) 37 *Archives of Hellenic Medicine* 832-843.

it shares common national and cultural ties), Cyprus has dealt more successfully with macroeconomic shocks and forced bailout programs (Cyprus received only one in 2013, whereas Greece has received multiple from 2010 onwards). Moreover, the Cypriot economy maintained a comparatively higher income, as well as its main international competitive advantages, because it is a small and relatively open economy with a reasonably flexible labour market.⁶⁵

Amidst this volatile period,⁶⁶ the Cypriot socio-economic system was called upon to face the pandemic crisis from the beginning of 2020, when COVID-19 spread to Europe. According to various scholars, the response to the crisis was characterised by successful and swift intervention efforts, privileging expert involvement in shaping the response plan and minimising the transmission of the virus.⁶⁷ According to a study conducted in the Central Bank of Cyprus,⁶⁸ the crisis has tested the Cypriot economy, in which specific trade-offs have been implemented to deal with its consequences, devoting public resources to support the real economy and aiming at a rapid return to growth.

However, the real economy of Cyprus is characterised by structural deficiencies, which makes the future development outline particularly challenging for all socio-economic actors in the country. Specifically, the competitiveness of the Cypriot economy seems to have been transformed by the outbreak of the previous crisis, with the period 2013-2016 leading to significant wage cuts in the private and public sector and especially in construction, transport, and tourism.⁶⁹ It seems that the overall level of development of the Cypriot economy, aggravated by pre-existing

⁶⁵ Artemii S. Bobrov, 'Greece and Cyprus Amidst Debt Crisis: A Comparative Study' (2019) 63 *World Economy and International Relations* 84-89.

⁶⁶ Yiannos Katsourides, 'Circumstantial and Utilitarian Euroscepticism: Bailed-in Cyprus during and after the Eurozone Crisis' (2020) *South European Society and Politics* 1-28.

⁶⁷ Evangelia Petridou, Nikolaos Zahariadis, Stephen Ceccoli, 'Averting Institutional Disasters? Drawing Lessons from China to Inform the Cypriot Response to the COVID-19 Pandemic' (2020) 6 *European Policy Analysis* 318-327.

⁶⁸ Alexa Giagkou & Ors, 'Thematic Study: Measures and Decisions made to Address the Effects of the COVID-19 Pandemic' ('Θεματική Μελέτη: Μέτρα και Αποφάσεις που Λήφθηκαν για την Αντιμετώπιση των Επιπτώσεων της Πανδημίας COVID-19') (Central Bank of Cyprus, 2021), available at: <https://www.centralbank.cy/images/media/pdf/FSD-Occasional-paper-on-measures-re-COVID-19.pdf> (last accessed 28 June 2021) (in Greek).

⁶⁹ Marios C. Polemiodotis, Maria C. Papageorgiou, Maria G. Mithillou, 'Measuring the Competitiveness of the Cyprus Economy: The Case of Unit Labour Costs' (July 2019) Working Paper 2018-2 (Central Bank of Cyprus, 2018), available at: <https://www.centralbank.cy/images/media/pdf/CBC-Working-Paper-on-ULC-2018-02.pdf> (last accessed 28 June 2021).

comparative weaknesses, has been shaken after this crisis. These weaknesses are rooted in the relatively restrained local and national market environment and the distorted client perception of value.⁷⁰ In this context, internationalisation appears critical for the survival and development of SMEs (the actors hit the hardest by both crises).

Overall, having gone through periods of relative stability, peace, and economic growth, the Cypriot economy entered an era of turmoil from 2013 onwards, which was the result of cultural and socio-economic factors. Without ignoring phenomena occurring at the global level, the crisis of the Cypriot economy (like all other economies) starts from the internal environment, both at the level of the private and the public-regulatory sector; according to Theofanous,⁷¹ it seems that the Cypriot socio-economic system is currently in search of a comprehensive new paradigm. Promising in this direction is the NGEU program, a large-scale fund to support EU Member States as mentioned above, which is structured in such a way so as to supply grants to projects aimed at fostering green energy and digital transformation to ensure the recovery and resilience of the participating countries and the EU.⁷²

In terms of the challenges faced by the Cypriot economy, it can be argued that there is a need for further focus on strengthening the competitiveness of the productive system. Particular emphasis must be placed on reinforcing the skills and knowledge of SMEs, which seem to lag in terms of innovation and extroversion. Specifically, the relatively small size of many businesses and the predominance of informal forms in a relatively large number of firms in Cyprus creates obstacles in their adaptation process to the post-COVID-19 global system. In this context, many industries seem to be facing the pressing need for the rapid development of their strategic, technological and management structures, and especially the tourism sector that seems particularly vulnerable in the current crisis. At the same time, this need for rapid readjustment requires macroeconomic stability and the preparedness to follow the reforms that will necessarily accompany the NGEU. The next concluding section is dedicated to analysing more specific ways of dealing with the

⁷⁰ Demetris Vrontis, Alkis Thrassou, 'Internationalization of SMEs in Cyprus' in Leo P. Dana & Ors (eds), *Handbook of Research on European Business and Entrepreneurship: Towards a Theory of Internationalization* (Edward Elgar Publishing, 2008) 150-170.

⁷¹ Andreas Theofanous, 'Cyprus in Search of a New Economic Paradigm' (2018) 30 *The Cyprus Review* 213-242.

⁷² Claire Dupont, Sebastian Oberthür, Ingmar von Homeyer, 'The Covid-19 Crisis: A Critical Juncture for EU Climate Policy Development?' (2020) 42 *Journal of European Integration* 1095-1110.

immense current changes initiated by COVID-19 for the various socio-economic systems rather than Cyprus only.

Concluding Remarks: Challenges in the Emergence of the New Global Era

This article aimed to investigate whether the current COVID-19 pandemic crisis is accelerating global developments. After presenting some of the perspectives of international organisations on the expected regression of global socio-economic progress, we examined these developments through the prism of perceptions that study the organic transformation of the global socio-economic system over time.

It seems that our world is entering a complex evolutionary transformation with high velocity and intensity. It would be no exaggeration to claim that we are facing the techno-economic paradigm shift, the endless transition to the knowledge-based economy, the fourth industrial revolution, and the gradual emergence of the new globalisation at the same time. Using biological analogies to describe the ongoing change in the 'organism' of the global system, we concluded that the generalised cessation of productive activity resembles the case of a 'stroke'.

Today, a crisis is being added to the already feeble global socio-economic development, weakening structures at all levels.⁷³ COVID-19 causes radical and irreversible changes which are expected to have the most adverse effect on the weakest and less competitive socio-economic systems and organisations.⁷⁴ For example, at the Eurozone level, southern countries such as Cyprus and Greece, which host some of the less developed regional ecosystems in terms of competitiveness and innovation,⁷⁵ are expected to be hit significantly compared to other Eurozone economies. The problem is that many of the industries and regions of these countries have a

⁷³ Charis Vlahos, 'Porter's Diamond Approaches and the Competitiveness Web' (2019) 10 *International Journal of Business Administration* 33-52.

⁷⁴ Charis Vlahos & Ors, 'Regional Underdevelopment and Less Developed Business Ecosystems: The Case of Eastern Macedonia and Thrace' (2019) 6 *Bulletin of Applied Economics* 31-44; Charis Vlahos & Ors, 'Crisis, Innovation, and Change Management in Less Developed Local Business Ecosystems: The Case of Eastern Macedonia and Thrace' (2019) 19 *Perspectives of Innovations, Economics and Business* 114-140.

⁷⁵ Andreas Kirlappos, 'Reforming Local Government in the Republic of Cyprus: Resistance and Differentiations' (2018) 30 *The Cyprus Review* 101-122; Mark J. Boden, 'RIS3 Implementation in Lagging Regions: Lessons from Eastern Macedonia and Thrace' (2017) 5 *European Structural & Investment Funds Journal* 77-83; Theophanous (no 69).

'long history of illness': they are comparatively underdeveloped because they are suffering diachronically in structural competitiveness.⁷⁶

What can be done in terms of economic policy to reduce negative impacts and, at the same time, diffuse new opportunities? A drastic boost in demand, both in national- international and EU terms, is also necessary but not sufficient. Stimulating active demand either by budgetary or monetary means is not enough, just as blood transfusions and 'hot soups' are not enough to resuscitate a stroke victim. Our gaze must turn directly on how to rescue and restore the 'organs' of the economy, similarly to the case of a 'stroke'.

Several analysts argue that the principal challenge for the near future is digital transformation.⁷⁷ The concept of digital transformation suggests the widespread use of technology to improve a firm's performance.⁷⁸ Regarding the challenging situation of less adaptive and competitive entrepreneurial models, appropriate instruments and policies that promote their digital transformation must be articulated by the governments and other stakeholders.⁷⁹

At the same time, the design and implementation of local-national innovation policies will ultimately determine how the less developed socio-economic formations will overcome the current crisis. First and foremost, socio-economic organisations must learn how to navigate complexity in conditions of 'chaos'.⁸⁰ Especially the weakest organisations in terms of adaptation must learn how to navigate through and innovate in the turbulent global macro-environment (Figure 2).

⁷⁶ Charis Vlados, Dimos Chatziniolaou, 'Institutional Dynamics and Economic Development in Greece: An Acemoglian Approach' (2020) 12 *Research in Applied Economics* 12-32.

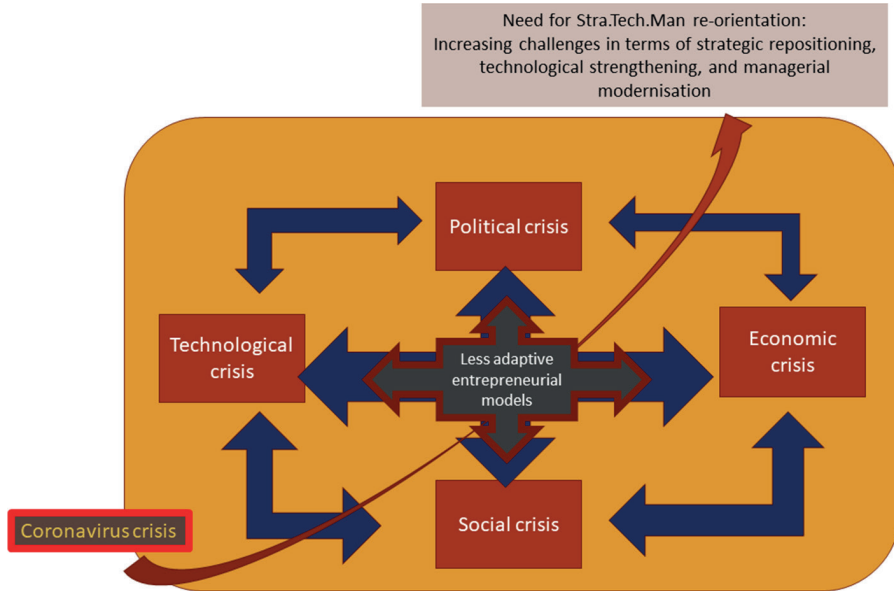
⁷⁷ Dobrica Savić, 'COVID-19 and Work from Home: Digital Transformation of the Workforce' (2020) 16 *Grey Journal (TGJ)* 101-104; David Mhlanga, Tankiso Moloji, 'COVID-19 and the Digital Transformation of Education: What Are We Learning on 4IR in South Africa?' (2020) 10 *Education Sciences*; Marco Iansiti, Greg Richards, 'Coronavirus Is Widening the Corporate Digital Divide' (2020) *Harvard Business Review*.

⁷⁸ Daniel Schallmo, Christopher Williams, Luke Boardman, 'Digital Transformation of Business Models—Best Practice, Enablers, and Roadmap' (2017) 21 *International Journal of Innovation Management*.

⁷⁹ Benjamin Barann & Ors, 'Supporting Digital Transformation in Small and Medium-Sized Enterprises: A Procedure Model Involving Publicly Funded Support Units' (2019) *Proceedings of the 52nd Hawaii International Conference on System Sciences*.

⁸⁰ Philip Kotler, John Caslione, *Chaotics: The Business of Managing and Marketing in the Age of Turbulence* (New York: American Management Association, 2009).

Figure 2: Less adaptive entrepreneurial models and the need for Stra.Tech.Man re-orientation



The less adaptive and competitive firms face a multilevel crisis of their macro-environment: a parallel social, economic, political, and technological turmoil. At the same time, the COVID-19 pandemic has arrived and exacerbated this environment, and a successful readjustment and re-synthesis of their structural characteristics is necessary for their future survival and development. Thus, adaptability today requires a constant evolutionary and dialectical spirit, focused on internal strategic repositioning, technological strengthening, and managerial modernisation.

Fostering the adaptiveness and competitiveness of the most vulnerable firms—their ability to survive, reproduce, and develop within the evolving conditions of their external environment—must now be at the heart of developmental economic policy. In this context, and if the different socio-economic systems do not articulate appropriate policies in structural terms, we expect that underdeveloped industries and localities will become weaker in competitiveness and innovation.⁸¹

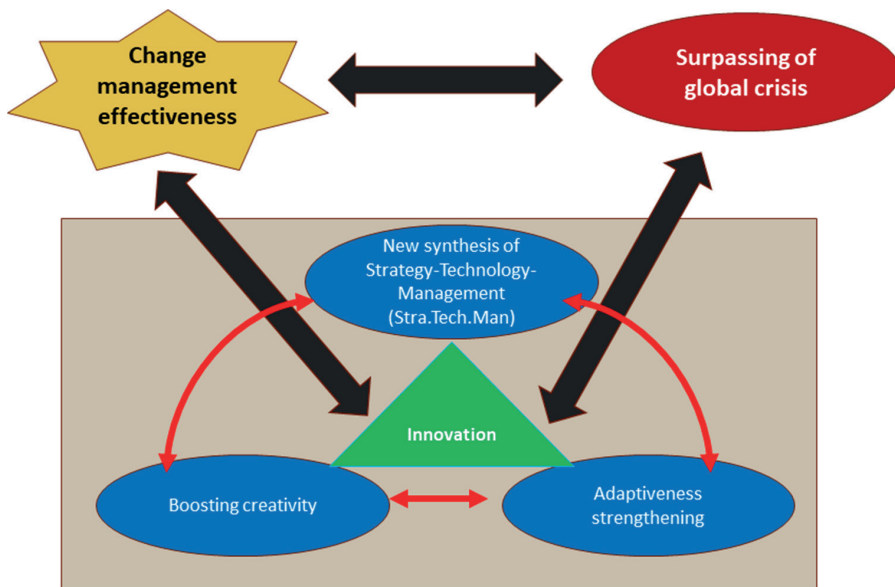
Unfortunately, the current crisis will hit the already vulnerable parts of these production systems, pushing them towards permanent necrosis. The future pro-

⁸¹ Jörg Meyer-Stamer, 'Systemic Competitiveness Revisited: Conclusions for Technical Assistance in Private Sector Development' (2005) Working Paper 14 *Mesopartner*.

gress of these socio-economic systems will depend on the adaptiveness of the locally established firms and their ability to devise new strategies, assimilate new technology quickly, use modern management methods, and thus innovate and survive.⁸² Many of them will have to follow the recovery cycle just as what happens in the recovery cycle of the ‘stroke’ we briefly described. They should also, in some ways, pursue ‘neuro-muscular retraining’ and relearn how to ‘stand on their feet’.

If all socio-economic systems, on a global scale, do not embrace, absorb, and integrate a wide scale of innovations, as the concept of ‘new globalisation’ suggests, then our world will not overcome the global crisis and restructuring in a sufficiently stabilising way. These innovations must spread in every level of action, either private or public, through the creation, dissemination, and utilisation of efficient change management mechanisms (Figure 3).

Figure 3: The triangle of global crisis and restructuring, innovation, and change management. Based on Vlahos et al.⁸³



Every socio-economic actor must perceive innovation as an organic process generated by adaptiveness, creativity, and efficient synthesis of strategy, technol-

⁸² Charis Vlahos, *Stra.Tech.Man (Strategy-Technology-Management): Theory and Concepts* (KSP Books, 2019).

⁸³ Vlahos, Deniozos, Dimos Chatzinikolaou (no 23).

ogy, and management (Stra.Tech.Man). The surpassing of global crisis requires, in systemic terms, this generation of innovation, accompanied by the appropriate change management mechanisms. According to Vlados,⁸⁴ the cycle of change management is a dialectic⁸⁵ process, always consisting of strategic, technological, and managerial transformation, followed by innovative synthesis and successful assimilation of change.

Therefore, in any crisis that will eventually arrive, all socio-economic actors need to handle change efficiently. Firms, and especially the less adaptive ones, do not only need low-interest loans or subsidies, as some scholars and international organisations suggest.⁸⁶ In our perspective, they need ‘clinical care’ focused on developing the required potential of change management quickly and effectively.⁸⁷ An ‘anti-crisis’ economic policy must be ready to provide the necessary infrastructure and coverage at the local and national level.

These firms also need to avoid illusions. Things will not be fixed automatically, and we will not live just like we used to. The conventional stereotypes of massiveness, spontaneity, easiness, amateurism, sloppiness, cheapness, improvisation, and laxity are dimensions that, seemingly, can no longer be efficient in the new global era. Besides the ‘highly-advertised’ digital transformation, we believe that security, trust, reliability, accuracy, de-materialisation, teleworking, online production, distribution, consumption, and, above all, adaptiveness, are the new critical capacities for our societies, economies, and businesses.

⁸⁴ Charis Vlados, ‘Change Management and Innovation in the “Living Organization”: The Stra.Tech. Man Approach’ (2019) 7 *Management Dynamics in the Knowledge Economy* 229-256.

⁸⁵ In the dialectic perception of change, every balance is always temporary, and all phenomena are dynamic and ‘confrontational’. In dialectics, everything starts from a state of balance (the ‘thesis’), which appears to be firm and unshakable. However, an ‘antithesis’ emerges inside this ‘thesis’, eventually. The ‘antithesis’ causes the balance to unsettle gradually and the fundamental features of the ‘thesis’ have no other choice but to change. Then, a new era of balance built on an entirely new qualitative base is always born, which provides a unique platform of quantitative accumulation of the phenomenon, which, in the dialectic terminology, is called ‘synthesis’. Charis Vlados, Nikolaos Deniozos, Dimos Chatzinikolaou, ‘Dialectical Prerequisites on Geopolitics and Geo-Economics in Globalization’s Restructuration Era’ (2019) 6 *Journal of Economic and Social Thought* 65-92.

⁸⁶ Winarsih, Maya Indriastuti, Khoirul Fuad, ‘Impact of Covid-19 on Digital Transformation and Sustainability in Small and Medium Enterprises (SMEs): A Conceptual Framework’ in Leonard Barolli, Aneta Poniszewska-Maranda, Tomoya Enokido (eds), *Complex, Intelligent and Software Intensive Systems* (Switzerland: Springer International Publishing, 2021) 471-476.

⁸⁷ Charis Vlados, Dimos Chatzinikolaou, ‘Crisis, Institutional Innovation and Change Management: Thoughts from the Greek Case’ (2019) 6 *Journal of Economics and Political Economy* 58-77.

Overall, the question arising from the preceding analysis is how these aptitudes can be diffused in societal terms. The problem of empowering the adaptability and competitiveness of production becomes a priority. The fast-paced diffusion, assimilation, and activation of new knowledge for the various business organisations to develop their innovation potential appear to be critical. To this end, it can be argued that a drastic enhancement of educational structures aimed towards reinforcing the knowledge potential of all actors in the various socio-economic systems is required. This new economic policy must concern both the employed by offering them the required skills and the unemployed who must find new ways to insert themselves in the new post-COVID-19 dynamics. Without a doubt, international hierarchical power relations and global governance mechanisms (formal and informal)⁸⁸ will play a significant role in this pristine environment. However, as historical reality proves, entrepreneurial and institutional innovation is the force that ceaselessly upsets the equilibrium of power and functions as the ‘real revolution’.

References

- Andrikopoulos A., Ch. Nastopoulos, *Crisis and Realism* (Κρίση και Ρεαλισμός) (Athens: Propobos Publications, 2015) (in Greek).
- Arkhipova A., V. Turkova, O. Kuznetsova, ‘World Economy Development Forecast During the COVID-19 Pandemic’ 751 (Presented at the IOP Conference Series: Earth and Environmental Science, 2021).
- Barann B. & Ors, ‘Supporting Digital Transformation in Small and Medium-Sized Enterprises: A Procedure Model Involving Publicly Funded Support Units’ (2019) *Proceedings of the 52nd Hawaii International Conference on System Sciences*.
- Blyth M., *Austerity: The History of a Dangerous Idea* (Oxford University Press, 2013).
- BMBF-Internetredaktion, ‘Future Project Industry 4.0 - BMBF’ (Zukunftsprojekt Industrie 4.0 - BMBF) (2016), available at: <https://www.bmbf.de/de/zukunftsprojekt-industrie-4-0-848.html> (last accessed 28 June 2021) (in German).
- Bobrov A.S., ‘Greece and Cyprus Amidst Debt Crisis: A Comparative Study’ (2019) 63 *World Economy and International Relations* 84-89.

⁸⁸ Charles B. Roger, *The Origins of Informality: Why the Legal Foundations of Global Governance are Shifting, and Why it Matters* (Oxford, NY: Oxford University Press, 2020).

- Boden M.J., 'RIS3 Implementation in Lagging Regions: Lessons from Eastern Macedonia and Thrace' (2017) 5 *European Structural & Investment Funds Journal* 77-83.
- Bonilla-Molina L., 'Covid-19 on Route of the Fourth Industrial Revolution' (2020) 2 *Postdigital Science and Education*, available at: <https://doi.org/10.1007/s42438-020-00179-4> (last accessed 28 June 2021).
- Bragazzi, N.L., 'Digital Technologies-Enabled Smart Manufacturing and Industry 4.0 in the Post-COVID-19 Era: Lessons Learnt from a Pandemic' (2020) 17 *International Journal of Environmental Research and Public Health*.
- Brandenburger A.M., B. Nalebuff, *Co-opetition: A Revolution Mindset that Combines Competition and Cooperation* (New York: Doubleday, 1996).
- Bush V., *Science, the Endless Frontier; A Report to the President on a Program for Postwar Scientific Research* (Washington, DC: Office of Scientific Research and Development, 1945).
- Chatzinikolaou D., Ch. Vlados, 'Evolutionary Economics and the Stra.Tech.Man Approach of the Firm into Globalization Dynamics' (2019) 5(10) *Business, Management and Economics Research* 146-160.
- Chatzinikolaou D., Ch. Vlados, 'Schumpeter, Neo-Schumpeterianism, and Stra. Tech.Man Evolution of the Firm' (2019) 5 *Issues in Economics and Business (International Economics and Business)* 80-102.
- Christodoulakis N., *How Crises Shaped Economic Ideas and Policies* (Cham, Switzerland: Springer International Publishing, 2015).
- Collin P.H., *Dictionary of Medicine* (2nd edn, Chicago, IL; London, UK: Taylor & Francis, 1998).
- Constantinou E., N. Yfantopoulos, J. Yfantopoulos, 'The Economic Crisis, the Memorandum and the Reforms in the Health System of Cyprus' (2020) 37 *Archives of Hellenic Medicine* 832-843.
- Czifra G., Z. Molnár, 'Covid-19 and Industry 4.0' (2020) 28 *Research Papers Faculty of Materials Science and Technology Slovak University of Technology* 36-45.
- Della Porta D., 'How Progressive Social Movements Can Save Democracy in Pandemic Times' (2020) 12 *Interface: A Journal for and about Social Movements* 355-358.

- Duggan N., 'BRICS and the Evolution of a New Agenda within Global Governance' in M. Rewizorski (ed.), *The European Union and the BRICS: Complex Relations in the Era of Global Governance* (Cham, Switzerland: Springer 2015) 11-25.
- Dupont C., S. Oberthür, I. von Homeyer, 'The Covid-19 Crisis: A Critical Juncture for EU Climate Policy Development?' (2020) 42 *Journal of European Integration* 1095-1110.
- Etzkowitz H., L. Leydesdorff, 'The Endless Transition: A "Triple Helix" of University-Industry-Government Relations: Introduction' (1998) 3 *Minerva* 203-208.
- Etzkowitz H., L. Leydesdorff, 'The Triple Helix -- University-Industry-Government Relations: A Laboratory for Knowledge Based Economic Development' (1995) 14 *EASST Review* 14-19.
- European Council, 'Special Meeting of the European Council (17, 18, 19, 20 and 21 July 2020) – Conclusions' (Brussels, 21 July 2020), available at: consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf (last accessed 28 June 2021).
- Fominaya C.F., 'From Classical Syndicalism to Spain's 15-M Movement' in Athina Karatzogianni, Michael Schandorf, Ioanna Ferra (eds), *Protest Technologies and Media Revolutions, Digital Activism and Society: Politics, Economy and Culture in Network Communication* (Emerald Publishing Limited, 2020) 197-209.
- Gerbaudo P., 'The Pandemic Crowd: Protest in the Time of COVID-19' (2020) 73 *Journal of International Affairs* 61-76.
- Ghazinoory S., M. Narimani, S. Tatina, 'Neoclassical versus Evolutionary Economics in Developing Countries: Convergence of Policy Implications' (2017) 27 *Journal of Evolutionary Economics* 555-583.
- Giagkou A. & Ors 'Thematic Study: Measures and Decisions made to Address the Effects of the COVID-19 Pandemic' ('Θεματική Μελέτη: Μέτρα και Αποφάσεις που Λήφθηκαν για την Αντιμετώπιση των Επιπτώσεων της Πανδημίας COVID-19') (Central Bank of Cyprus, 2021), available at: <https://www.centralbank.cy/images/media/pdf/FSD-Occasional-paper-on-measures-re-COVID-19.pdf> (last accessed 28 June 2021) (in Greek).
- Gill H., 'A Continuing Vision: Cyber-Physical Systems' (Annual Carnegie Mellon Conference on Electricity Industry. Energy Systems: Efficiency, Security, Control, 10-11 March 2008).

- Gramsci A., *Selections from the Prison Notebooks* (first published 1948, 11th edn, New York: International Publishers 1992).
- Grinin L., A. Korotayev, 'Covid-19 Pandemic, Geopolitics, and Recession' (June 2020) Working Paper 4 (Moscow: International Center for Education and Social and Humanitarian Studies).
- Haagh L., 'Rethinking Democratic Theories of Justice in the Economy After COVID-19' (2020) 7 *Democratic Theory* 110-123.
- Hausken K., J. W. Welburn, 'Assessing the 2010–2018 financial crisis in Greece, Portugal, Ireland, Spain, and Cyprus' (2020) *Journal of Economic Studies*, available at: <https://doi.org/10.1108/JES-08-2020-0406> (last accessed 28 June 2021).
- Hodgson G.M., *Economics and Evolution: Bringing Life Back into Economics* (Cambridge: Polity Press, 1993).
- Iansiti M., G. Richards, 'Coronavirus Is Widening the Corporate Digital Divide' (2020) *Harvard Business Review*.
- ILO, 'ILO Monitor: COVID-19 and the World of Work. Fifth Edition. Updated Estimates and Analysis' (30 June 2020), available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_749399.pdf (last accessed 28 June 2021).
- International Institute for Democracy and Electoral Assistance, 'Global Monitor of COVID-19's Impact on Democracy and Human Rights' (Stockholm: 2020), available at: https://www.idea.int/sites/default/files/publications/COVID19_Global-Monitor-Methodology-and-Codebook.pdf (last accessed 28 June 2021).
- International Monetary Fund (IMF), 'World Economic Outlook: The Great Lock-down' (Washington, DC: IMF April 2020).
- Katsourides Y., 'Circumstantial and Utilitarian Eurocepticism: Bailed-in Cyprus during and after the Eurozone Crisis' (2020) *South European Society and Politics* 1-28.
- Kirlappos A., 'Reforming Local Government in the Republic of Cyprus: Resistance and Differentiations' (2018) 30 *The Cyprus Review* 101-122.
- Kondratieff N., 'The Long Waves in Economic Life' (1935) 17 *The Review of Economics and Statistics* 105-115.
- Kontos M., 'Power Games in the Exclusive Economic Zone of the Republic of Cyprus' (2018) 30 *The Cyprus Review* 51-70.

- Kotler Ph., J. Caslione, *Chaotics: The Business of Managing and Marketing in the Age of Turbulence* (New York: American Management Association, 2009).
- Krasnov J.K., A. U. Solovieva-Oposhnynskaya, V. V Artiukh, 'Interstate Relations between Russia and Cyprus amid Geopolitical Contradictions in a Multipolar World' (2019) 31 *The Cyprus Review* 237-261.
- Kyritsi Th., N. Christofis (eds), *Cypriot Nationalisms in Context* (London: Palgrave Macmillan, 2018).
- Lakoff G., M. Johnson, *Metaphors We Live By* (Chicago, IL: University of Chicago Press, 1990).
- Levy D.L., 'COVID-19 and Global Governance' (2021) 58 *Journal of Management Studies* 562-566.
- Lockey E., 'COVID-19: The Race for a Vaccine' (2020) 21 *Journal of the Renin-Angiotensin-Aldosterone System* 1-3.
- Lois P., A. Christodoulou, 'Impact of the Global Financial Crisis and Resulting Bail-In on the Audit of Cypriot Banks' (2019) 31 *Cyprus Review* 79-118.
- Markovic S. & Ors, 'Business-to-business Open Innovation: COVID-19 Lessons for Small and Medium-Sized Enterprises from Emerging Markets' (2021) 170 *Technological Forecasting and Social Change*.
- McCloskey D., *The Rhetoric of Economics* (Madison, WI: University of Wisconsin Press, 1998).
- Meyer-Stamer J., 'Systemic Competitiveness Revisited: Conclusions for Technical Assistance in Private Sector Development' (2005) Working Paper 14 *Mesopartner*.
- Mhlanga D., T. Moloi, 'COVID-19 and the Digital Transformation of Education: What Are We Learning on 4IR in South Africa?' (2020) 10 *Education Sciences*.
- Nelson R.R. & Ors, *Modern Evolutionary Economics: An Overview* (Cambridge: Cambridge University Press, 2018).
- OECD, *OECD Economic Outlook, Volume 2020 Issue 1: Preliminary Version* (Paris: OECD Publishing), available at: https://www.oecd-ilibrary.org/economics/oecd-economic-outlook/volume-2020/issue-1_0d1d1e2e-en (last accessed 28 June 2021).
- Pavlidis N., 'Cypriot Economic Crisis – Crime and Punishment: Great Expectations or Realistic Possibility?' (2015) 27 *Cyprus Review* 249-290.

- Perez C., 'Structural Change and Assimilation of New Technologies in the Economic and Social Systems' (1983) 5 *Futures* 357-375.
- Petridou E., N. Zahariadis, St. Ceccoli, 'Averting Institutional Disasters? Drawing Lessons from China to Inform the Cypriot Response to the COVID-19 Pandemic' (2020) 6 *European Policy Analysis* 318-327.
- Pleyers, G., 'The Pandemic is a Battlefield: Social Movements in the COVID-19 Lockdown' (2020) 16 *Journal of Civil Society* 295-312.
- Polemidiotis M.C., M.C Papageorghiou, M.G Mithillou, 'Measuring the Competitiveness of the Cyprus Economy: The Case of Unit Labour Costs' (July 2019) Working Paper 2018-2 (Central Bank of Cyprus, 2018), available at: <https://www.centralbank.cy/images/media/pdf/CBC-Working-Paper-on-ULC-2018-02.pdf> (last accessed 28 June 2021).
- Rodeck, D., 'Alphabet Soup: Understanding the Shape of a COVID-19 Recession' (*Forbes Advisor*, 8 June 2020), available at: <https://www.forbes.com/advisor/investing/covid-19-coronavirus-recession-shape/> (last accessed 28 June 2021).
- Roger Ch. B., *The Origins of Informality: Why the Legal Foundations of Global Governance are Shifting, and Why it Matters* (Oxford, NY: Oxford University Press, 2020).
- Savić D. 'COVID-19 and Work from Home: Digital Transformation of the Workforce' (2020) 16 *Grey Journal (TGJ)* 101-104.
- Schallmo D., Ch. Williams, L. Boardman, 'Digital Transformation of Business Models—Best Practice, Enablers, and Roadmap' (2017) 21 *International Journal of Innovation Management*.
- Schumpeter J., 'The Instability of Capitalism' (1928) 38 *The Economic Journal* 361-386.
- Schumpeter J., *Business Cycles: A Theoretical, Historical and Statistical Analysis of the Capitalist Process* (New York: McGraw-Hill, 1939).
- Schumpeter J., *Capitalism, Socialism and Democracy* (first published 1942, Taylor & Francis e-Library, 2003.).
- Schwab, K., 'The Fourth Industrial Revolution', (*Foreign Affairs*, 12 December 2015), available at: <https://www.foreignaffairs.com/articles/2015-12-12/fourth-industrial-revolution> (last accessed 28 June 2021).
- Sharif A., Ch. Aloui, L. Yarovaya, 'COVID-19 Pandemic, Oil Prices, Stock Market, Geopolitical Risk and Policy Uncertainty Nexus in the US Economy: Fresh Ev-

- idence from the Wavelet-Based Approach' (2020) 70 *International Review of Financial Analysis*.
- Theophanous A., 'Cyprus in Search of a New Economic Paradigm' (2018) 30 *The Cyprus Review* 213-242.
- Tooze A., *Crashed: How a Decade of Financial Crises Changed the World* (New York: Penguin, 2018).
- Tziarras Z., 'The Eastern Mediterranean in Transition: Multipolarity, Politics and Power' (2017) 29 *The Cyprus Review* 259-263.
- United Nations, 'COVID-19 and Human Rights: We are All in This Together' (2020), available at: <https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and> (last accessed 28 June 2021).
- United Nations, 'Global Humanitarian Response Plan: COVID-19 United Nations Coordinated Appeal: April–December 2020' (2020), available at: <https://www.unocha.org/sites/unocha/files/Global-Humanitarian-Response-Plan-COVID-19.pdf> (last accessed 28 June 2021).
- Vlados Ch. & Ors, 'Crisis, Innovation, and Change Management in Less Developed Local Business Ecosystems: The Case of Eastern Macedonia and Thrace' (2019) 19 *Perspectives of Innovations, Economics and Business* 114-140.
- Vlados Ch. & Ors, 'Regional Underdevelopment and Less Developed Business Ecosystems: The Case of Eastern Macedonia and Thrace' (2019) 6 *Bulletin of Applied Economics* 31-44.
- Vlados Ch. & Ors, 'Towards an Evolutionary Understanding of the Current Global Socio-Economic Crisis and Restructuring: From a Conjunctural to a Structural and Evolutionary Perspective' (2018) 9 *Research in World Economy* 15-33.
- Vlados Ch., 'Change Management and Innovation in the "Living Organization": The Stra.Tech.Man Approach' (2019) 7 *Management Dynamics in the Knowledge Economy* 229-256.
- Vlados Ch., 'On a Correlative and Evolutionary SWOT Analysis' (2019) 12 *Journal of Strategy and Management* 347-363.
- Vlados Ch., 'Porter's Diamond Approaches and the Competitiveness Web' (2019) 10 *International Journal of Business Administration* 33-52.

- Vlados Ch., 'The Classical and Neoclassical Theoretical Traditions and the Evolutionary Study of the Dynamics of Globalization' (2019) 6 *Journal of Economics and Political Economy* 257-280.
- Vlados Ch., 'The Phases of the Postwar Evolution of Capitalism: The Transition from the Current Crisis into a New Worldwide Developmental Trajectory' (2019) 18 *Perspectives on Global Development and Technology* 457-488.
- Vlados Ch., D. Chatzinikolaou, 'BRICS and Global Restructuring: Notes for the Near Future' (2020) 6 *Management and Economics Research Journal* 1-7.
- Vlados Ch., D. Chatzinikolaou, 'Crisis, Institutional Innovation and Change Management: Thoughts from the Greek Case' (2019) 6 *Journal of Economics and Political Economy* 58-77.
- Vlados Ch., D. Chatzinikolaou, 'Institutional Dynamics and Economic Development in Greece: An Acemoglian Approach' (2020) 12 *Research in Applied Economics* 12-32.
- Vlados Ch., *Global Crisis, Innovation and Change Management: The Stra.Tech.Man Perspective (Παγκόσμια Κρίση, Καινοτομία Και Διαχείριση Αλλαγής: Η Προσέγγιση Stra.Tech.Man)* (Athens: Kritiki Publications, 2017) (in Greek).
- Vlados Ch., N. Deniozos, D. Chatzinikolaou, 'Dialectical Prerequisites on Geopolitics and Geo-Economics in Globalization's Restructuration Era' (2019) 6 *Journal of Economic and Social Thought* 65-92.
- Vlados Ch., N. Deniozos, D. Chatzinikolaou, 'Global Crisis, Innovation and Change Management: Towards a New Systemic Perception of the Current Globalization Restructuring' (2018) 11 *International Business Research* 9-29.
- Vlados Ch., *Stra.Tech.Man (Strategy-Technology-Management): Theory and Concepts* (KSP Books, 2019).
- Vrontis D., A. Thrassou, 'Internationalization of SMEs in Cyprus' in L.P. Dana, I. Welpe, M. Han and V. Ratten (eds), *Handbook of Research on European Business and Entrepreneurship: Towards a Theory of Internationalization* (Edward Elgar Publishing, 2008) 150-170.
- WHO, 'WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 23 July 2020', available at: <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--23-july-2020> (last accessed 28 June 2021).

Winarsih, M. Indriastuti, K. Fuad, 'Impact of Covid-19 on Digital Transformation and Sustainability in Small and Medium Enterprises (SMEs): A Conceptual Framework' in L. Barolli, A. Ponszewska-Maranda, T. Enokido (eds), *Complex, Intelligent and Software Intensive Systems* (Switzerland: Springer International Publishing, 2021) 471-476.

World Bank, 'Global Economic Prospects' (Washington, DC: The World Bank, 2020).

Zeleny M. *Autopoiesis: A Theory of Living Organizations* (New York: Elsevier Science, 1980).

The Bifold Cypriot Facet: Echoes of the UN Peacekeeping Mechanisms and the Politico-Legal Policies in the COVID-19 Era

VICKY KAPOGIANNI¹

Abstract

COVID-19 proffered the opportunity to promote intergroup solidarity and enhance coexistence in the dichotomised island of Cyprus. Nevertheless, devices put in place as drastic preventive measures not only incited internal and external reactions, but also resulted in further distancing the two communities. Preventive policies and mechanisms implemented during the pandemic were introduced in the form of 'exceptional orders' which prioritised the protection of public health; thus, they remained in an external relationship to normative constitutional law. In an attempt to cope with the COVID-19 state, emergency measures that generated ambiguities within the exercising powers, since different parts of the Cypriot Constitution delimit the role of each government branch, were determined. Ergo, constitutional-compliance questions emerged as per the laws applied and interpreted in the aftermath of the emergency promulgation, examining whether rights under human rights law remained aligned with the rule of law and whether these means were upheld in the context of the pandemic.

Keywords: COVID-19, peace mechanisms, emergency laws, migration, derogation regime, human rights, international law

Introduction

Once the divided island of Cyprus confirmed its first cases of COVID-19, pre-existing complexities and idiosyncrasies, begot out of the particular historical antecedents which had shaped the so-called 'Cyprus Problem', came anew into light. In March 2020, while the confirmed cases were growing exponentially in Europe and whilst other European States precipitated in declaring a state of emergency, the Republic of Cyprus opted for the adoption of executive measures based on the pro-

¹ Lecturer in Law, NCI University London

visions of a colonial legislation, namely the Quarantine Law (Cap. 260)². The said law had been enacted in 1932 by the British and in the aftermath of Cyprus independence in 1960, it had remained in force, under Article 188 of the Constitution³, subject to compliance with the constitutional provisions. The emerged paradox was that, even though the Constitution of the Republic of Cyprus provides for the declaration of a state of emergency under Article 183, this was never triggered due to its limited scope and the procedural requirements which mandated the participation of the withdrawn Turkish-Cypriot community. Therefore, and under these legal longstanding perplexities, the Cypriot Parliament reached for the colonial legislation disregarding the fundamental principle of the supremacy of the Constitution.

Cyprus has a long history of ethnic conflict. In the wake of the Turkish invasion in 1974, the islands' division created new borders. The northern area unilaterally declared 'Turkish Republic of Northern Cyprus' (TRNC), solely recognized by Turkey and administered by the Turkish Cypriots and the southern area the Republic of Cyprus administered since 1964 exclusively by Greek Cypriots. The buffer zone, known as 'Green Line' which divides the two parts, typically is under the control of the United Nations. Since 2003, a number of crossing points have opened up allowing movement between the two areas. This was meant to be a start for a long process of negotiations towards the reunification of the island. Nevertheless, on 28 February, the Greek Cypriot Government announced the closure of four of the nine crossing points even though no cases had been diagnosed on any part of the island, considering crossings from the checkpoints as the biggest threat.⁴ Consequentially, the Greek Cypriot government response to the crisis stamped out any prospects for reunification as it cemented both physically and politically, the division of the island.⁵

² Quarantine Law-Decree, Chapter 260, *Decree under Article 6 (a), (b), (c), (d), (e) and (g)* (2020), available at <https://www.pio.gov.cy/coronavirus/diat/10en.pdf>. (last accessed 23 May 2020).

³ Cyprus Constitution, Art 188, available at https://www.constituteproject.org/constitution/Cyprus_2013.pdf?lang=en (last accessed 24 June 2021).

⁴ 'End the Unilateral Suspension of the Operation of the Checkpoints and Install the Necessary Control Mechanisms', *Parikiaki* (2 March 2020), available at <http://www.parikiaki.com/2020/03/end-the-unilateral-suspension-of-the-operation-of-the-checkpoints-and-install-the-necessary-control-mechanisms/> (last accessed 17 May 2020).

⁵ Fiona Mullen & Hubert Faustmann, 'The Impact of the COVID-19 Crisis on Divided Cyprus' (April 2020), available at <http://library.fes.de/pdf-files/bueros/zypern/16785.pdf> (last accessed 20 June 2021).

Moreover, COVID-19 has also taken a disproportionate toll on refugees, migrants and asylum seekers. The pandemic has been marked by breaches of the Republic of Cyprus' international treaty obligations towards asylum seekers, whose living conditions have caused an additional cause for concern.⁶ Back in 2019, the Greek Cypriot Government had announced that would reenforce controls of the Green Line through the amendment of the Code for the implementation of the Regulation of the European Council (866/2004/EC) on the Green Line.⁷ However, the initial proposals were not widely welcomed by human rights experts and NGOs as the new measures were considered disproportionate, discriminatory and made without any consultation with stakeholders.⁸ Moving forward, in January 2020, the Cyprus Ministry of the Interior announced the alteration of the policy on migration. It proposed setting up a new safe countries list and the construction of EU-funded migrant centres where asylum seekers can be detained until their applications are fully processed and stressed that for the rejected applications the deployment of Frontex will be used as a mechanism for the return of migrants to third countries.⁹ Nevertheless, COVID-19 had a deteriorating effect on refugees, migrants and asylum seekers' human rights and living conditions, with delays in asylum and migration procedures and limited access to the legal and judicial systems.

In this article, I analyse through an interdisciplinary approach, the implementation of measures and policies adopted by the Republic of Cyprus to tackle COVID-19 health crisis, the pandemic's impact on the relationship between the two divided communities and on migration. In the first part, the focus is on how the premature response to the pandemic, deterred any prospects for the reunification of the island. The second part examines the existing legislation on migration and asylum policies and its implementation during the pandemic. The focus is subsequently shifted towards an investigation on how preventive measures imposed by the executive power in the form of 'exceptional orders, interfered with constitutionally established rights, political and civil rights and further shrunk civic space,

⁶ Ibid.

⁷ 'Council of Ministers Amendments on the Green Line Code in Violation of the EC Regulation', *Kisa* (1 December 2019), available at <https://kisa.org.cy/ministerial-amendments-on-the-green-line-code-in-violation-of-the-ec-regulation/> (last accessed 25 June 2021).

⁸ Ibid.

⁹ 'Cyprus to launch a new migration and asylum policy', *Brief* (25 January 2020), available at <https://www.brief.com.cy/english/cyprus-launch-new-migration-and-asylum-policy> (last accessed 22 June 2021).

challenging the rule of law. With that context, attention is thereafter drawn to an analysis of the concepts of state of emergency, state of exception and the doctrine of necessity. Finally, the article attempts to elucidate the derogation regime developed as an exodus for violation exemptions in times of emergency.

The Cyprus Dichotomy: A Step Towards an Ethnic Reconciliation or Further Distancing

Since the 1974 Cyprus divide, interethnic violence has persisted on the island, endangering peace in the eastern Mediterranean. Regardless of the perennial UN peace-talk attempts and mechanisms to implement specific confidence-building measures to the peace process within a wider reconciliation effort and ensure sustainable peace development, the dispute remains unresolved.

Core issues of territorial adjustments, and the power-sharing balance of federal governance—including the symbolism of a rotating presidency—coupled with questions of security and guarantees have divided the Turkish and Greek communities for almost five decades. The failure of the President of the Republic of Cyprus (RoC), Nicos Anastasiades, and the leader of the ‘Turkish Republic of Northern Cyprus’ (‘TRNC’), Mustafa Akıncı, to obtain the convergence of positions on the aforementioned internal dimensions before moving on to security and the implementation stage resulted in further negative implications. Although this was designed to increase the RoC President’s bargaining position for implementing a rotating presidency with a reduced security role for Turkey, in effect, it blocked, negotiations and sustained a negative atmosphere in the relations with the ‘TRNC’ leader M. Akıncı and the Cypriot public. The security issue was, perhaps, the key factor leading to the collapse of the negotiations.¹⁰

The pandemic outbreak was thought to be a step towards a reunification process, bringing the two communities closer, and enabling them confront the state of emergency that had occurred. Back in 2008, a bicomunal Technical Committee on Health was established, involving experts from both sides with the intention to share information on their health systems and provide assistance to both communities, respectively. Additionally, a sub-committee with expertise on issues

¹⁰ Michális S. Michael, ‘Dialogue Remains Critical as Hopes Rise for Cyprus’ *IPI Global Observatory* (19 August 2015), available at <https://theglobalobservatory.org/2015/08/cyprus-akinci-anastasiades-united-nations/> (last accessed 16 May 2020).

related to infectious and genetic diseases was set up.¹¹ During the Technical Committee meeting that took place on 3 February,¹² both the President of the RoC, Nicos Anastasiades, and the leader of the ‘TRNC’, Mustafa Akıncı, mutually agreed that the pandemic crisis necessitated the joining of their forces, an increase in their cooperation and coordination levels and actions in concert. Yet, on the 28th of the same month, Nikos Anastasiades unilaterally prompted a temporary closure of four checkpoints, citing COVID-19 spread-out concerns, even though no reported infections in the occupied territories had officially been made until that point. On this note, the Parliamentary Spokesperson and Political Bureau member of AKEL¹³, Yiorgos Loucaides, challenged the government’s answer on the matter of control mechanisms which were not installed at all checkpoints, and which would have prevented the closure of any crossing points.¹⁴

Evidently, as this decision carried sensitive political implications, the unilateral suspension caused –as expected– the reaction of the ‘TRNC’ leader, who proceeded to state that this action does not unite but, on the contrary, divides the two communities even more.¹⁵ Therefore, in counter-response, as COVID-19 began to spread on the Greek Cypriot side, Turkish Cypriots proceeded to close all nine checkpoints, resulting in another disjunction of the only previously joined forces, completely isolating the two communities.

In fact, COVID-19 presented an opportunity to promote intergroup solidarity and enhance coexistence in the two divided societies. However, the tactical lines followed, such as the drastic preventive measures, not only incited internal and

¹¹ Secretary-General’s Good Offices Mission in Cyprus, ‘Joint Statement by the bicomunal Technical Committee on Health’ *UN Cyprus Talks* (3 February 2020), available at <http://www.uncyprustalks.org/joint-statement-by-the-bicomunal-technical-committee-on-health/> (last accessed 16 May 2020).

¹² ‘They Join Forces Against the Coronavirus: Anastasiadis-Akıncı Have Agreed on Measures’ (‘Ενώνουν Δυνάμεις για τον Κορωνοϊό: Αναστασιάδης-Ακιντζί Συμφώνησαν Μέτρα’) *AlphaNewsLive* (3 February 2020), available at <https://www.alphanews.live/politics/enonoun-dynameis-ton-koronoio-anastasiadis-akintzi-symfonisan-metra> (last accessed 16 May 2020) (in Greek).

¹³ AKEL (Progressive Party of the Working People) is a contemporary communist party guided by the ideology of Marxism-Leninism. Founded in 1941, it has been the oldest political party in the Republic of Cyprus.

¹⁴ Parikiaki (no 4).

¹⁵ ‘It Is Not a Coronavirus Struggle, But an Action to Divide the Two Communities’ (Coronavirüs mücadelesi değil, iki toplumu birbirinden uzaklaştıracak bir eylem) *Genctv* (29 February 2020), available at <https://www.kibrisgenctv.com/kibris/coronavirus-mucadelesi-degil-iki-toplumu-birbirinden-uzaklastiracak-h64679.html> (last accessed 17 May 2020) (in Turkish).

external reactions but also resulted to further distancing the steps taken towards reconciliation.

Following a brief account of the recent interaction of the two communities during the pandemic crisis, the questions raised for examination are focused on the legitimacy of the implemented policies and their consequences on the already turbulent relationship of the divided island of Cyprus. Secondly, since different parts of the Cypriot Constitution delimit the role of each branch of government, emergency measures and regulations which caused ambiguities within the exercising powers were determined in an attempt to cope with the rapid spread of COVID-19. Ergo, questions of constitutional compliance emerged as per the laws applied in the aftermath of the promulgation of emergency, examining citizens' rights in conjunction with the rule of law and whether these means were upheld in the context of the pandemic.

The Echoes of Peace Efforts in the COVID-19 Era

In the aftermath of the closure of the checkpoints, the sudden disruption posed questions on the impact of implemented policies on the 'Green Line' and the missed opportunity for a 'COVID-19 synergy' which could bridge a significant part of the gap between the two communities. Efforts to rejoin forces during crucial times in an attempt to sustain peace between the divided communities withered away with the suspension of the crossings, rendering Cyprus more akin to the pre-2003 era when the two communities were entirely isolated from each other. Besides the limited information and exchange of medical supplies, the two leaders of the island proceeded to their own individual responses to contend with the COVID-19 outbreak. The continuous waning of trust among them, and the nature of the pandemic dictating isolation and distancing exacerbated the lack of cooperation and the probability of acting in concert. By turning their backs to each other during crucial times, the two leaders could unavoidably bequeath a lasting legacy on the dichotomy of Cyprus and any reunification prospects.

In response to the global pandemic, the United Nations Peacekeeping Force in Cyprus (UNFICYP), has been working in unison with the authorities to ensure all relevant mitigating and preventive protocols are strictly adhered to, monitoring the divided island's ceasefire line.¹⁶ In the meantime, on 4 April the UN Secretary-Gen-

¹⁶ Fm, 'COVID19: UN Peacekeeping Reports First Cyprus Case' *Financial Mirror* (10 April 2020), available at <https://www.financialmirror.com/2020/04/10/covid19-un-peacekeeping-reports-first-cyprus-case/> (last accessed 18 May 2020).

eral suspended the rotation and deployments of all uniformed personnel across all UN peace operations until 30 June, prioritising the personnel's and wider community's safety while enhancing measures to ensure the continuity of operations and the prevention of the spread of the virus.¹⁷

On the other hand, part of past peace efforts included a Bi-communal, Technical-Committee structure as an effective way to ensure communications and cooperation would go forward. Sharing medical supplies, expertise and even personnel could lead to a successful coordination of health care which could result in further appreciation of interdependencies and a step forward in regulating the relations between Greek Cypriots and Turkish Cypriots. On this note, the UN Secretary-General, Antonio Guterres, encouraged the two leaders to strengthen the other Bi-communal Technical Committees in the fight against COVID-19 and urged them to find additional ways to build trust between the two communities, stressing that a joint agreement on the opening of crossing points as soon as the health situation on the island stabilises is expected.¹⁸ The closure of crossing points caused a number of issues, chiefly to those who live on one side of the island and work on the other, as well as to Turkish Cypriot students who study at schools and universities in the south of the island. In the meantime, the Cyprus News Agency (CNA) reported that the Bi-communal Technical Committee on Economic and Commercial Matters, which works on maintaining the civil-society and economic-organisations dialogue between the two sides, was able to restart its economic activities with the Turkish Cypriot community as part of the implementation of the Green Line Regulation, facilitating contactless transactions.¹⁹

Evidently, once more the two leaders found themselves facing the challenge of finding a way to regain the lost momentum and steer their divided communities back to the reunification process by demonstrating good will, thereby redefining security and migration key priorities to address emergencies under the scope of mutual understanding and cooperation.

¹⁷ Ibid.

¹⁸ Evie Andreou, 'Coronavirus: Guterres Expects Joint Agreement on Reopening Crossing Points' *Cyprus-mail* (14 May 2020), available at <https://cyprus-mail.com/2020/05/14/coronavirus-guterres-expects-joint-agreement-on-reopening-crossing-points/> (last accessed 18 May 2020).

¹⁹ Ibid.

The Impact of the Pandemic on Security, Migration, and Vulnerable Groups

In recent years, the Cypriot government has introduced a more restrictive migration policy through particularly repressive measures. More precisely, in November 2019, the government announced the implementation of stricter controls by amending the Code²⁰ related to the Regulation of the European Council on the Green Line which specified in paragraph 7 that:

While taking into account the legitimate concerns of the Government of the Republic of Cyprus, it is necessary to enable EU citizens to exercise their rights of free movement within the EU and set the minimum rules for carrying out checks on persons at the line and to ensure the effective surveillance of it, in order to combat the illegal immigration of third country nationals as well as any threat to public security and public policy. It is also necessary to define the conditions under which third country nationals are allowed to cross the line.²¹

Although the government had initially suggested controls to be introduced for all people crossing the border, Greek-Cypriot citizens of the Republic were eventually exempted. In fact, the suggested amendment extends the ban to third-country nationals (TCNs) with a temporary residence permit also depriving them of the right to cross the checkpoints to the occupied northern territories.²² Since 2014, asylum seekers have not been authorised to cross the border, which constitutes an act of discrimination and, at the same time, a violation of the Community *acquis* on free movement²³. The decision to prohibit the crossing creates a direct violation of the Regulation of the European Council (866/2004/EC) according to its paragraph 6 and 7²⁴ as the imposed measures bring about disproportionate restrictions and

²⁰ Kisa (no 7).

²¹ Council of the European Union, 'Council Regulation (EC) No 866/2004' (9 June 2004) L 206/51, (9 June 2004) *Official Journal of the European Union (OJEU)*, (available at [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004R0866R\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004R0866R(01)&from=EN)) (last accessed 18 May 2020).

²² See (no 7).

²³ Cyprus Government Gazette, 'Ο Περί Μετονομασίας του Υπουργείου Εργασίας και Κοινωνικών Ασφαλίσεων Νόμος του 2014' (15 April 2014) Part I(I), No 4441, 287-330, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/100595/120736/F-1727220848/CYP100595%20Grk.pdf> (in Greek) (last accessed 20 May 2020).

²⁴ In this context para 7 of the Regulation states that the Republic of Cyprus shall enable EU citizens to exercise their rights of free movement within the EU and set the minimum rules for carrying out checks on persons at the line and to ensure the effective surveillance of it, in order to combat the illegal immigration of third country nationals as well as any threat to public security and public policy. It is also nec-

obstacles to the free movement of people through the line.²⁵ Additionally, provisions contained within the proposals could potentially restrict Article 18 on the right to asylum, which is a fundamental right of the EU Charter and thus, obstruct the access to the asylum procedure for those who cross the Green Line.²⁶

In the statement on new migration and asylum policy by the Minister of Interior on March 2020, it was stressed that measures aiming to accelerate the examination of asylum applications and expedite the return procedures in order to ensure safety and cope with the migrant flows within the Republic of Cyprus were planned. The aim was mainly to return only economic migrants to their countries or to the ‘safe countries’²⁷ where a better future possibly awaits them, since, admittedly, the RoC has already exceeded its limit and, thus, cannot afford to offer such prospects. In essence, the strategy proposal contained procedures focusing on strengthening the infrastructure of the Republic in the emergency reception centres at Pournara and Kofinou, which were converted into the migrants’ first-arrival registration centres ad hoc, with the purpose of accommodating a larger number of people. At the same time, the Minister of Interior underlined that the European Union (EU) should implement a pan-European asylum policy which would facilitate negotiations with third countries to which immigrants must return.²⁸

In the wider context of migration in the Mediterranean and Europe, concerns have been raised in view of the COVID-19 outbreak, where countries are struggling to cope with the huge migrant flows during the pandemic crisis. In Cyprus, the percentage of the migratory flow has recently reached 3.8%, indicating that 12,000 people have already been offered international protection, while there are 17,000

essary to define the conditions under which third country nationals are allowed to cross the line. Available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:206:0051:0056:EN:PDF> (last accessed 20 June 2021).

²⁵ Kisa (no 7).

²⁶ Nicos Trimikliniotis, ‘Cyprus As A New Refugee “Hotspot” in Europe? Challenges for a Divided Country’, (Nicosia: Friedrich-Ebert-Stiftung, 2019), available at <http://library.fes.de/pdf-files/bueros/zypern/16001.pdf> (last accessed 21 May 2020).

²⁷ In the refugee context, the term ‘safe country’ is applied to countries which are determined either as being non-refugee-producing countries or as being countries in which refugees can enjoy asylum without danger. UNHCR, ‘Background Note on the Safe Country Concept and Refugee Status EC/SCP/68’ (26 July 1991), available at <https://www.unhcr.org/uk/excom/scip/3ae68ccec/background-note-safe-country-concept-refugee-status.html> (last accessed 19 June 2021).

²⁸ Press and Information Office, ‘Statement by the Minister of Interior on the Migration Problem’ (3 March 2020), available at <https://www.pio.gov.cy/en/press-releases-article.html?id=12444#flat> (last accessed 22 May 2020).

pending asylum applications and 4,000 pending appeals.²⁹ Yet, on 20 March, a boat carrying 175 Syrian asylum seekers –many of who claimed they were trying to join family already settled in the RoC– was warded off by the Greek Cypriot coast guard ending up near the shore of Northern Cyprus where Turkish Cypriot authorities assisted it in reaching land. The asylum seekers were, at first, put in a 14-day quarantine period which led to an effective house arrest, as they were kept in confinement and under constant surveillance. As the reasons for their extended confinement were not clarified, major concerns were raised as per the ‘TRNC’ law stipulating that detention on migration grounds is authorised only for 8 days and is solely extendable by a court decision.

According to international law regulations, the Republic of Cyprus covers the entire island, which is, nevertheless, under the effective control of two states due to its dichotomy. Therefore, within the State-responsibility framework, Turkey should assume responsibility for any human rights violations, since, as the occupying power, it is the only country recognising the self-declared ‘Turkish Republic of Northern Cyprus’. To this effect, the European Court of Human Rights (ECtHR), in its judgment of 10 May 2001 on the Fourth Interstate Application of *Cyprus v. Turkey* held that ‘Turkey having effective overall control over Northern Cyprus, its responsibility extends to securing all human rights under Article 1 of the European Convention of Human rights and for violations of such rights by her own soldiers or officials, or by the local administration, which are imputable to Turkey’.³⁰

Interestingly, even though the ‘TRNC’ issued deportation orders to send the asylum seekers to Turkey, the latter refused to accept the 175 asylum seekers invoking COVID-19 concerns. The Greek Cypriot authorities had already refused permission allowing the boat to land and had pushed them back, hence, since Turkey’s ratification of the 1967 Protocol comes with a geographical restriction recognising only European refugees³¹, based on these grounds Turkey proceeded in sending them back to Syria. It is not the first time Turkey has violated the non-refoulement principle³² by forcibly returning refugees or asylum seekers to their country, where their

²⁹ Ibid.

³⁰ *Cyprus v. Turkey*, (10 May 2001) Application no 25781/94, para 77.

³¹ UNHCR, The Republic of Cyprus, available at <https://www.refworld.org/pdfid/5541e6694.pdf> (last accessed 22 June 2021).

³² ‘EU: Don’t Send Syrians Back to Turkey’ *Human Rights Watch* (HRW) (20 June 2016), available at <https://www.hrw.org/news/2016/06/20/eu-dont-send-syrians-back-turkey> (last accessed 22 May 2020).

life could be endangered or where they could face violations of their rights. In particular, Syrian asylum seekers in the RoC stated that during their previous attempts to reach Cyprus they were deterred by the Turkish coast guard and were forced to sign voluntary repatriation forms before being returned to Syria.³³ In fact, as the ‘TRNC’ has no available asylum system, nongovernmental groups are sometimes granted access to migrants who reach the territory in order to determine whether international protection is needed; if it is, refugee law provisions are activated, allowing asylum seekers to stay and to have access to basic rights.

Protections afforded to asylum seekers by the RoC –operating as an EU member and under its strict migration policy– are not accessible to those who reach the Northern Cyprus territory. Although it is under the jurisdiction of the RoC to control its borders and crossings into the country, the Republic is also bound to respect the right to seek asylum, as stated within the EU Charter of Fundamental Rights. Failure to do so could constitute violation of the non-refoulement principle, while refusing to aid a boat in distress could also be a breach, under Article 98,³⁴ of the Law of the Sea and of their EU obligations on search-and-rescue.³⁵

It would be expected that under international law and the ECtHR case law on *Cyprus v. Turkey*³⁶ and *Loizidou v. Turkey*³⁷ respectively, joint responsibility would apply, since Turkey has been considered to exercise effective control over the north. Nevertheless, Turkey maintains the geographical limitation to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, which, in turn, reduces the protection, offered to refugees from non-European States³⁸ and thus restricts the legal frame in both Turkey and the North to specific policy decisions.

³³ Gerry Simpson, ‘“Repatriation” of Syrians in Turkey Needs EU Action’ *HRW* (7 November 2019), available at <https://www.hrw.org/news/2019/11/07/repatriation-syrians-turkey-needs-eu-action> (last accessed 22 May 2020).

³⁴ Article 98 para b of the United Nations Convention of the Law of the Sea stipulates that ‘to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him’.

³⁵ ‘Turkish Cypriot Authorities: Release Detained Syrian Asylum Seekers’ (*HRW*, 16 April 2020), available at <https://www.hrw.org/news/2020/04/16/turkish-cypriot-authorities-release-detained-syrian-asylum-seekers> (last accessed 23 May 2020).

³⁶ *Cyprus v. Turkey* (no 30).

³⁷ *Loizidou v. Turkey*, [1995] ECtHR, Application no. 15318/89.

³⁸ UNHCR (no 31).

COVID-19 Preventive Measures and Devices

On 11 March 2020, in the aftermath of the World Health Organisation's (WHO) declaration of the coronavirus pandemic, governments, international agencies and institutions announced temporary measures considering the circumstances of public emergency. Inevitably, emergency measures imposed at a national, European, international and global level are entangled in principles, freedoms, and rights which, according to Article 4 of the International Covenant on Civil and Political Rights (ICCPR), shall be in conformity with the legality, temporality, official proclamation, and inviolability of absolute rights.³⁹

Preventive policies and mechanisms implemented during the pandemic were introduced in the form of 'exceptional orders' which prioritised the protection of public health, and thus, remain in an external relationship to normative constitutional law. For instance, under the UK Coronavirus Bill,⁴⁰ substantial and exceptional measures were assumed by the government to be used only for ad hoc purposes and in a manner which would be proportionate to the situation. These measures included powers for the police to arrest and forcibly take for testing any people suspected of being infected with the virus.

The wide-ranging restrictions on individual freedoms enacted in several countries under emergency COVID-19 measures also raised major concerns as per the free flow of news and information. Government officials in Brazil, China, Mexico, Belarus, Myanmar, and the United States revealed a muddled denialism as per the pandemic, depriving their publics of accurate information. In Bangladesh, Cambodia, Egypt, Ethiopia, Turkey, and Venezuela, journalists and others were arrested and detained for reporting on or expressing opinions about COVID-19 on social media. In Bolivia, authorities used COVID-19 as a ground to menace political opponents with up to 10 years of imprisonment for spreading 'misinformation'.⁴¹ The International Press Institute (IPI) reported that over 193 media-freedom violations had been committed worldwide in the first three months from the outbreak of the pandemic, resulting in arrests and charges of journalists, restrictions on access to information, censorship, excessive fake-news regulations, and verbal or physical attacks.

³⁹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Art. 4.

⁴⁰ Coronavirus Act 2020 (HC Bill c. 7).

⁴¹ 'COVID-19: A Human Rights Checklist' *HRW* (14 April 2020), available at <https://www.hrw.org/news/2020/04/14/covid-19-human-rights-checklist> (last accessed 22 May 2020).

The response of many countries to the COVID-19 crisis, where vulnerable and marginalised populations were particularly affected, precipitated governments to tighten or close border regimes and apply precautionary isolation and border measures. The same tactic was adopted by the Republic of Cyprus, first by imposing lockdown, applying control restrictions on non-essential journeys and international travel in a coordinated attempt among Schengen Member States and the contiguous States, and second, by proceeding to suspend the crossing-points operations afterwards.

By temporarily limiting personal freedoms guaranteed by the Constitution, the Cypriot government ‘froze’ the constitutional legal order for an indefinite period. Article 183, paragraph 1 of the Constitution specifies that ‘in case of war or other public danger threatening the life of the Republic or any part thereof, the Council of Ministers shall have power, by a decision taken in this respect, to issue a Proclamation of Emergency’.⁴² It then continues to stipulate in paragraph 2 ‘any such Proclamation shall specify the Articles of the Constitution which shall be suspended for the duration of such Emergency’.⁴³

Although no state of emergency had been declared by 24 March⁴⁴ and no official transcript on the Proclamation of Emergency appeared to be available, the President of the Republic of Cyprus, in his announcement on 24 March 2020, referred to the pandemic by naming and describing the challenging condition as a ‘war’.⁴⁵ Within the context of a state of emergency, restrictive measures taken by governments restrict or limit fundamental human rights prescribed by the Universal Declaration of Human Rights (UDHR), such as freedom of movement (Article 13) and the right to freedom of peaceful assembly (Article 20), ‘for the sake of protecting and promoting the health of individuals and communities’.⁴⁶

⁴² Cyprus Constitution, Art. 183, para 1, available at https://www.constituteproject.org/constitution/Cyprus_2013.pdf?lang=en (last accessed 19 June 2021).

⁴³ Ibid, para 2.

⁴⁴ European Union Agency for Fundamental Rights (FRA), *Coronavirus COVID-19 outbreak in the EU-Fundamental Rights Implications* (University of Nicosia and Symfilios, 24 March 2020), available at https://fra.europa.eu/sites/default/files/fra_uploads/cyprus-report-covid-19-april-2020_en.pdf. (last accessed 22 May 2020).

⁴⁵ Bouli Hadjioannou, ‘Coronavirus: Full Text of Address of President Anastasiades Announcing the Lockdown’ *In-Cyprus* (24 March 2020), available at <https://in-cyprus.philenews.com/coronavirus-full-address-of-president-anastasiades-announcing-the-lockdown/> (last accessed 22 May 2020).

⁴⁶ Universal Declaration of Human Rights, (adopted 10 December 1948) UNGA Res 217A (III) (UDHR).

Limitations on rights and freedoms are, obviously, justified and considered imperative for the protection of public health during emergencies. Nevertheless, paragraph 28 of the General Comment 14 of the Committee on Economic, Social and Cultural Rights (CESCR) stipulates that limitations are ‘intended to protect the rights of individuals rather than to permit the imposition of limitation by states’ and that on the other hand, States have the ‘burden of justifying such serious measures’ as it has been the case with the notifications by States addressed to the Council of Europe (Treaty office).⁴⁷ Yet, paragraph 29 of the General Comment 14 explicitly specifies that any limitations ‘must be proportional whilst the least restrictive alternative must be adopted’, and stipulates that ‘restrictions should be of limited duration and subject to review’.⁴⁸ Ergo, distinct conditions and features of the grounds for limitation or derogation along with interpretations which legitimise limitations in the case of public emergencies find themselves in the intersection of a triad of principles, posing the question of how derogations in human rights law can be permissible and in alignment with the rule of law whilst mandating ‘the least intrusive means and not risking to be characterised arbitrary, unreasonable or discriminatory’.⁴⁹

The Quarantine Law: A Colonial Alternative Within the Scope of a State of Emergency

The Constitution of the Republic of Cyprus contains a constitutional peculiarity which dates to the deep-rooted influence of the Republic since the British era. The Quarantine Law Cap. 260, a remnant of the pre-existing colonial legislation still underpinned by Article 188 of the Constitution, was triggered during COVID-19, bestowing a broad leeway of discretionary powers to the Council of Ministers to determine measures to prevent the spread of the Covid-19 Coronavirus 2020, Decree No 9.⁵⁰

All decrees, regulations and notices promulgated under the rule of law are supposed to remain in force until further notice, which suggests measures might remain in place beyond reasonable time. Yet, it is questionable whether extending the restricted measures for an indefinite period provides a precautionary and effective

⁴⁷ UNCESCR ‘General Comment 14’ (11 August 2000) E/C.12/2000/4, Art 12.

⁴⁸ Ibid.

⁴⁹ Lawrence O. Gostin, ‘When Terrorism Threatens Health: How Far Are Limitations on Human Rights Justified’ (2003) 31 *Journal of Law, Medicine and Ethics* 524.

⁵⁰ Quarantine Law-Decree (no 2).

approach against the pandemic. The applicability of the Quarantine Law Cap. 260 raised multiple concerns including the issuance of 24 Decrees out of which only seven were officially translated in the English language even though the official languages of the RoC are Greek and Turkish. The absence of a social contract in the Republic of Cyprus, partly due to its colonial background, often explains the absence of an ample and inclusive public consultation which –regardless of the government’s tactic of seeking scientific advice on the control of the infectious disease– cannot substitute mechanisms of direct democracy.⁵¹

On the contrary, the anachronistic context of the Quarantine Law per se can cause ambiguities and further controversies in conjunction with the rule of law during the pandemic, mainly because it confers a broad spectrum of powers to the executive. Thus, it would be more advantageous to pursue a more holistic conceptualisation, incorporating a synthesis of appropriate emergency laws, which would be proportionate to the circumstances and abide by the principle of proportionality, which is common practice to limiting derogation and other powers, justifying a means-end relationship reflected by the obligation to avert any derogations where strictly required by the situation of emergency.

The rule of law is designed to respond to facts of life in a reasonable and justified manner and must do justice to the situation at hand. Hence, it is determined which governmental measures are legally suitable and consequently admissible for the alleged legitimate purpose under the so-called sub-principle of ‘fitness’ or ‘suitability’.⁵² On the other hand, the principle of necessity gives rise to the question of whether less intrusive means to achieve the *desideratum* of the measures can be found and requires that no measure less restrictive –yet equally effective– be available.

The foresaid principle, generally defined as proportionality *stricto sensu*, assesses whether a measure is considered excessive, evaluating all relative factors, and preventing unjustifiable results.⁵³ Yet, the applicability of these three intercon-

⁵¹ Stéphanie Lahlé Shaelou, Andrea Manoli, ‘The Islands of Cyprus and Great Britain in Times of COVID-19 Pandemic: Variations on the Rule of Law ‘In and Out’ of the EU’ *UCLan School of Law* (1 June 2020), available at <https://lawblog.uclancyprus.ac.cy/the-islands-of-cyprus-and-great-britain-in-times-of-covid-19-pandemic-variations-on-the-rule-of-law-in-and-out-of-the-eu/?cn-reloaded=1> (last accessed 8 June 2020).

⁵² Thomas Cottier & Ors, ‘The Principle of Proportionality in International Law: Foundations and Variations’ (2017) 18(4) *The Journal of World Investment and Trade* 628.

⁵³ Schlink Bernhard, ‘Proportionality’ in Michel Rosenfeld & András Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law* (Oxford University Press, 2012).

nected components does not comply with a systemic way but rather lies within a framework of balancing aspects at stake according to the facts of an ad hoc basis, as defined by the exigencies of the situation⁵⁴ and the protection of public health.

The Doctrine of Necessity Within a State of Necessity

It is not the first time the Cypriot constitutional order has come to a halt by the law of necessity in the aftermath of the constitutional crisis in 1963 and the Turkish invasion and occupation of the Republic's territories in 1974. Following the constitutional breakdown in 1963, whereupon Turkish Cypriots withdrew from the government, Greek Cypriots undertook full control in 1965.⁵⁵ During the transitional phase of the merging of the two supreme courts of Cyprus under the 33/1964 Law, the Supreme Court relied on and applied the doctrine of necessity under the *Mustafa Ibrahim* case⁵⁶ for the first time in 1964 in its attempt to go beyond the Constitution whilst preserving constitutional order. The ad hoc reference to reliance is not directly linked to the inaptitude of the existing State bodies to respond to a state of emergency by exercising their powers under the Constitution. In the absence of willingness of the two communities to cooperate under the bi-communal constitutional provisions —which was an indirect prerequisite but not a legally binding rule— for the effective operation of the provisions defined under Article 179 within the constitutional framework, the Cypriot State's identity as a constituted State,⁵⁷ as this was determined in the Constitution, was legally hampered.⁵⁸ Hence, the doctrine of necessity is reflected within the context of the State's per se necessity to introduce measures which would otherwise be unconstitutional, but only for the purpose of surmounting the absence of the Turkish-Cypriot community, since State bodies were impeded from fulfilling their duties. Therefore, the Court's decision to rely on and apply the doctrine, was primarily founded on the power conferred by Article 179, paragraph 1 which specifies that: "This Constitution shall be the su-

⁵⁴ Cottier (no 52).

⁵⁵ Criton G. Tornaritis, 'Peculiarities of the Cyprus Constitution and Impacts on the Smooth Operation of the State' (Ίδιορρυθμίες του Κυπριακού Συντάγματος και Επιπτώσεις στην Ομαλή Λειτουργία του Κράτους') (1979) 5 *Cyprus Legal Podium* (Κυπριακό Νομικό Βήμα) (in Greek).

⁵⁶ *Attorney-General of the Republic v. Mustafa Ibrahim and others* [1964] CLR 195.

⁵⁷ Constantinos Kombos, *The Doctrine of Necessity in Constitution Law* (Athens-Thessaloniki: Sakoulas Publications, 2015) 175.

⁵⁸ Cf. Polyvios G. Polyviou, *The Case of Ibrahim, the Doctrine of Necessity and the Republic of Cyprus* (Nicosia, 2015) 35-45.

preme law of the Republic'⁵⁹ *ipso facto*, interactively and by responding to a state of emergency. Article 183 would therefore seem to be appropriately invoked in this respect, under judicial control and on the basis of establishing a necessity *per se*.

The Constitution of the Republic of Cyprus provides, under Article 183, a leeway to issue a Proclamation of Emergency which, so far, has never been triggered due to its limited scope and the fact that during the two previous crises the constitutional proceduralisation required the cooperation of both communities. Following the withdrawal of the Turkish community members from all public offices of the State after the inter-communal conflict of 1963, that was no longer the case. Hence, the State's necessity to surmount the crisis whilst ensuring the continuity of the functioning of the organs of State helped invent the law of necessity –applicable since 1964– instead of amending Article 183 that nurtures a constitutional paradox.⁶⁰

In Cyprus, the doctrine of necessity has received a bifold recognition as an external and internal restriction. However, as an internal restriction solely, its applicability is effective within the frame of emergency law under the context of the suspension of rights.⁶¹ In the *Ibrahim judgement*, specific prerequisites must be met before the principle of necessity becomes applicable. Ergo, measures taken to confront the necessity should be proportionate to the gravity of the situation which has affected the necessity and limited to the duration of the exceptional circumstances.⁶²

The COVID-19 outbreak brought back bygone constitutional peculiarities by way of evidencing a further dimension of the paradox based on the recently emerged necessity. This law of necessity, as an aftereffect of the collapse of the bi-communal Cypriot State, cannot be directly invoked in this instance of absence of a link between the public-health emergency and the *raison d'être* of the doctrine's content. On the same note, Article 183 cannot be directly invoked either, due to its rigid content based on grounds involving 'war or other public danger threatening the life of the Republic or any part thereof'.⁶³ Thus, a link could not be established despite

⁵⁹ Christos Papastylianos, 'The Cypriot Doctrine of Necessity within the Context of Emergency Discourse: How a Unique Emergency Shaped a Peculiar Type of Emergency Law' (2018) 30(1) *The Cyprus Review* 115.

⁶⁰ Constantinos Kombos, *Covid-19 and the Cypriot Example: A Constitutional Paradox*, 7 May 2020, available at <https://ukconstitutionallaw.org/2020/05/07/constantinos-kombos-covid-19-and-the-cypriot-example-a-constitutional-paradox/> (last accessed 10 June 2020).

⁶¹ Papastylianos (no 59) 134.

⁶² Papastylianos (no 59) 140.

⁶³ Cyprus Constitution, Art 183, para 1.

the fact that the President of the Republic of Cyprus, when addressing the public, referred to the situation as being tantamount to a ‘war’.⁶⁴

Laws of Exception v. Citizens of the Republic of Cyprus

Upon closer examination of the legal possibilities during the pandemic outbreak in Cyprus, it becomes evident that the proclamation of a state of emergency was not constitutionally feasible due to constitutional impediments on the use of emergency powers and the clear absence of reference to public health. The Council of Ministers, as the empowered body for triggering Article 183, would have to specify which articles would be suspended for the duration of the emergency (Article 183, paragraph 2) and which should cease to operate at the end of two months from the date of confirmation by the House of Representatives, unless decided otherwise. However, the President and the Vice-President of the Republic have the right of veto against such decision as per the stipulation of Article 183, paragraph 6.

Notwithstanding, within the suspended articles, Article 14 which stipulates that ‘no citizen shall be banished or excluded from the Republic under any circumstances’, was ambiguously interpreted and does not fall under Article’s 183 sub-provisions. Therefore, within the framework of the implemented policies, the right of Cypriot citizens to enter the RoC was banned unless a medical certificate (Coronavirus/COVID-19) or other relevant evidence was presented during their entry, if the individuals fell under the exceptions determined for this purpose.⁶⁵ This measure incited controversies related to the ban on entry to the citizens of the Republic⁶⁶ and the protection afforded by Article 14 for which, as considered by the Supreme Court of Cyprus in the *Attorney General v. Afamis* case,⁶⁷ the Court maintained the position that:

It is true that the literal meaning of the relevant Greek and Turkish expressions might be more akin to the English term “exiled” but for the purposes of the object of Article 14 of the Constitution it is clear that whether the precise phrase

⁶⁴ Hadjioannou (no 45).

⁶⁵ High Commission of Cyprus in the UK, ‘Urgent Information for Persons Seeking to Return to Cyprus’ (2020), available at <https://cyprusinuk.com/news/urgent-information-for-persons-seeking-to-return-to-cyprus/> (last accessed 10 June 2020).

⁶⁶ ‘Attorney General on Article 14: ‘Some People Occupy Themselves with Convenient Theories Without Thorough Investigation’ ‘Κάποιοι Ασχολούνται με εξ Ανέσεως Θεωρίες Χωρίς Εμπειριστατωμένη Μελέτη») *Justice* (17 March 2020), available at <https://dikaiosyni.com/enimerwsi/genikos-eisaggeleas-diloseis/> (last accessed 10 June 2020) (in Greek).

⁶⁷ Supreme Court of Cyprus, *The Attorney General of the Republic and Andreas Costas Afamis*, Case 50/61 (1961).

used is “exile” or “banishment”, they connote one and the same idea, namely, a compulsory expulsion from the Republic of a citizen with a prohibition of his return to the Republic for a limited or unlimited period of time. The Court is of the opinion, after having considered the relevant authorities on the subject, that proceedings under the Act would not amount to a “banishment” or “exile” or “exclusion” from the Republic. This being so, the Court is of the opinion that the Act is not contrary to, or inconsistent with, the provisions of Article 14 of the Constitution.

Nevertheless, it is worth mentioning that the Court in *Afamis* case was called to examine the (un-)constitutionality of a legislative act, which was related to the arrest or detention of a citizen of the Republic for the purposes of taking proceedings against him. In this respect, Article 11 paragraph 2 (f) of the Constitution, prohibits depriving a Cypriot national of his liberty save in cases where the person is effecting an unauthorised entry into the territory of the Republic or of an alien against whom action is being taken with a view to deportation or extradition⁶⁸. However, ever since Cyprus was constituted, this provision has been interpreted as confining the deportation procedures to aliens only⁶⁹. Consequently, the differentiation between the terms ‘person’ and ‘alien’ led the Supreme Court to declare of the said legislative act unconstitutional, since *Afamis* –being a citizen of the Republic – could not fall under the provisions of the ad hoc legislative act.

On the other hand, as per the restriction of entry measures for Cypriot citizens seeking to return to Cyprus during the COVID-19 outbreak, Article 13 was invoked, as it is related to the right to move freely throughout the territory of the Republic, while being subject to any restrictions imposed by law and which are necessary for the purposes of defence or public health. Yet, the ad hoc Article falls under the specifications of free movement within the Republic and, subsequently, within the scope of internal movement; it does not reflect the case of Cypriot citizens whose entry to the Republic’s territory was temporarily suspended.

Under the Quarantine Law, Cap. 260 –a ‘frozen’ colonial legislation amended only once before the pandemic crisis– the executive body was authorised to impose restrictive measures to the areas declared as infected by issuing ministerial decrees

⁶⁸ European Union Agency For Fundamental Rights, ‘The Constitution of the Republic of Cyprus’, Article 1(f), available at <https://fra.europa.eu/en/law-reference/constitution-republic-cyprus-3> (last accessed 19 June 2021).

⁶⁹ *Afamis*, (no 67).

which limited the legislative role to that of a mere observer left with no power of intervention to amend the Quarantine law. Out of this, a constitutional-compliance issue occurred between the ministerial decrees and their conformity with the Republic's Constitution that should be assessed in conjunction with the principle of proportionality, mainly in the cases brought before the court by individuals and legal persons affected during the COVID-19 pandemic.

The Case 301/2020, 16 April 2020,⁷⁰ refers to a Cypriot student residing in the United Kingdom (UK), whose access to the RoC was indirectly denied since the student could not provide the medical certificate required due to the fact that such medical documents were not being issued in the UK at the time. Upon examining the case within the context of interim proceedings, the administrative court was solicited to proceed by judicial order to the suspension of the ministerial decree which was imposing restrictions on entry to the RoC, as the measure imposed was deemed unconstitutional under Article 14. The Court, in its decision, dismissed the claim on procedural grounds, referring to its inability to challenge measures of a regulatory nature implemented for reasons of public safety and determined that the case was involving other factors, such as airline companies. Thus, by taking into account the condition of public emergency, the contested act could not be deemed illegal in interim proceedings based on standing grounds, but rather a matter *in abstracto*.⁷¹

In this instance, the case failed to become substantiated because the measures imposed were promulgated under a ministerial decree and were, thus, precluded from judicial scrutiny. The Court, in its approach, invoking the severity of the exceptional situation of the pandemic and its ad hoc absence of expertise, decided that such matters fall within the remit of scholars and policymakers.⁷²

In many respects, it remains questionable why the Constitution's provisions pre-empted the promulgation of emergency during the pandemic outbreak rather put forward laws of emergency and necessity in which the State has priors to, proceeding to relevant amendments. Obviously, the doctrine of separation of powers played a considerable role in the adoption of emergency measures, as the Constitution confers powers to each branch of government in an asymmetrical way. For instance, the executive branch is considered a powerful body. Hence, while a

⁷⁰ *Regarding Articles 1 (A), 7, 9, 14, 28 and 146 of the Constitution*, Case 301/2020 (16 April 2020), available at <http://www.cylaw.org/cgi-bin/open.pl?file=/administrative/2020/202004-301-20ait300320.html> (in Greek).

⁷¹ *Ibid.*

⁷² *Ibid.*

Proclamation is in operation, and if immediate action is required, the Council of Ministers may make any ordinance strictly connected with the state of emergency having the force of law (Article 183 paragraph 7 [1]) subject to the right of veto of the President and the Vice President of the Republic under Article 57.

On the other hand, the legislative branch —as exercised by the House of Representatives— has limited power, since it is considered ‘inter-dependent’ to the executive body. The *President of the Republic v. House of Representatives*⁷³ case law demonstrates the legislature’s exclusive authority to legislate except where the content of an act falls under the immediate remit of the executive; in that case, the power is exclusively conferred to the foresaid branch. Therefore, during the pandemic, and although Article 183 would seem more appropriately triggered in a state of public emergency in the absence of immediate provisions related to public health and its safeguard along with the vagueness regarding a potential prolongment of the duration of the state of emergency, the ad hoc constitutional article ended up not being applied. Instead, the colonial quarantine law was deemed more relevant in providing the solution despite its legal hindrances which stand against constitutional scrutiny.⁷⁴

In addition, the fact that the Court seems to allow ample space to governmental acts during the current situation of public emergency raises questions of constitutional compliance, since measures imposed are precluded from judicial scrutiny and therefore remain outside a legal safety net which might compromise the rights of the citizens of the Republic.

COVID-19 State of Exception

Considering the COVID-19 emergency, notions of the state of exception and biopolitics involved reflect ways in which sovereignty is understood and individual rights are recognised by and within sovereign power. The question lies on how a state of exception can be conceptualised within the context of sovereignty as it responds to the threat of a ‘COVID-19 state’. In this context, an examination of the biopolitical governance of the vicissitudes of biological life itself cannot be pursued without considering the legality and illegality of state measures enacted to keep the pandemic outbreak from spiralling out of control.

⁷³ , *Regarding Article 139 of the Constitution*, Case 1695/2015 (28 March 2016), available at http://www.cylaw.org/cgi-bin/open.pl?file=/apofaseis/aad/meros_3/2016/3-201603-1695-15.htm (in Greek).

⁷⁴ Kombos (no 59).

In this respect, international human rights law interfaces with and impacts on the domestic regulation of crisis by regulating the experience of emergencies at the domestic level through binding documents and treaties such as the UDHR, the European Convention on Human Rights (hereinafter European Convention), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁷⁵

The pandemic could be seen as a means to justify an unprecedented attempt to legitimise measures of control and regulation by State authorities in Western democratic societies. In this context, the term ‘COVID-19 state’ has been described by Agamben as a state of exception ‘provoked by an unmotivated emergency’,⁷⁶ which has provoked the media and authorities to produce a ‘disproportionate response’ to something that was just ‘a normal flu’.⁷⁷

While there have been debates on how a digitalised system of social control — such as the one implemented in China— could prove to be the right solution for democratic societies as a response to the pandemic threat, fundamental questions have been raised about the necessity of a check-and-balance model struck between government control providing security and the protections of individual rights and human rights in general. Ergo, notions of legal protection and rights recognition need to be reconsidered in the light of sovereign practices that have emerged during the COVID-19 crisis.

The ‘COVID-19 state’ has not involved the supersession or suspension of constitutional law but has rather instituted a biopolitical regime carrying political-legal orders that destabilise existing notions of individual, social and political bodies over the course of remodelling chief functions of the State and strengthening the

⁷⁵ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) at 71 (1948); Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR)(1950) ; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR); International Covenant on Economic, Social and Cultural Rights, GA res 2200A (XXI), 21 UN GAOR Supp (no 16) at 49, UN Doc A/6316 (1966), 993 UNTS 3, entered into force 3 January 1976.

⁷⁶ Nicolas Truong, ‘Giorgio Agamben: “The Epidemic Clearly Shows That the State of Emergency Has Become the Normal Condition” (‘Giorgio Agamben: “L’épidémie montre clairement que l’état d’exception est devenu la condition normale”’) *Le Monde* (24 March 2020), available at https://www.lemonde.fr/idees/article/2020/03/24/giorgio-agamben-l-epidemie-montre-clairement-que-l-etat-d-exception-est-devenu-la-condition-normale_6034245_3232.html (last accessed 27 March 2020) (in French).

⁷⁷ *Ibid.*

convergence between biomedical knowledge and political power. Yet, the confluence between *bios* and politics is played out in specific ways on displaced bodies.

Measures implemented by governments have led to a situation where two kinds of state of exception are in operation. Firstly, while an entire society found itself under a temporary state of exception in order to protect life, populations who had already been living under a state of exception prior to the pandemic –including refugees, as well as some other migrant and homeless populations– often faced contradictory (at times supportive and at other times repressive) policy responses. Therefore, the quarantine itself has produced, in a way, new borders, which could be inscribed as social institutions,⁷⁸ thus consolidating the already existing ones, paradoxically, even after the lockdown has been eased.

Under these circumstances, notions of legal protection and rights recognition need to be reconsidered in the light of sovereign practices that have emerged during the COVID-19 crisis through an attempt to redefine the term ‘emergency’ in order to minimize the gap between the interpretation of the law and its enactment, where ambiguities and contradictions have been made visible between coercive and relational practices of public security.

In Search of a Redefinition of the COVID-19 State of Emergency

The European Commission of Human Rights, for the purposes of Article 15 of the European Convention, defined as public emergency in *Lawless v. Ireland*⁷⁹ ‘a situation of exceptional and imminent danger or crisis affecting the general public, as distinct from particular groups, and constituting a threat to the organised life of the community which composes the State in question’.⁸⁰ Although some dissenters suggested a more diligent definition of public emergency, an alternative was indicated, associating war and public emergency in Article 15 – ‘in time of war or other public emergency’ – which must be construed as tantamount to war⁸¹ or as analogous to circumstances of war.⁸² A further dissenting opinion which simultaneously reflects the case of Cyprus and its constitutional crisis in 1963, propounded that a public emergency should be considered in instances where the constitutional order of the

⁷⁸ Sandro Mezzadra, Brett Neilson, *Border as Method, or The Multiplication of Labor* (Duke University Press, 2013).

⁷⁹ *Lawless v. Ireland*, 1 Eur. Ct HR (ser. B) at 56 (1960-1961) (Commission report) (hereinafter *Lawless* [Commission]); *Lawless* (Court), 3 Eur. Ct HR (ser. A) (1960-1961).

⁸⁰ *Ibid.* para 90, at 82.

⁸¹ Cf. Hadjioannou (no 45).

⁸² *Lawless* (no 79), para 93, at 95 (Commission member Süsterhenn, dissenting).

State has collapsed and the different branches of government can no longer be in function.⁸³ Yet, after considering the dissenting opinions and the submitted suggestions, the European Court of Human Rights (ECtHR), in its response merely affirmed the Commission's decision and abstained from providing a per se definition of its own.

Following the *coup d'état* in Greece which took place on 21 April 1967, the country announced the suspension of certain articles of the Constitution which guaranteed human rights.⁸⁴ In fact, Greece had ratified the Convention in 1953 and had been the first State to file two applications against the UK charging violations of the Convention by British authorities in Cyprus. In this regard, in their attempt to define a public emergency in the *Greek case*,⁸⁵ the Commission members identified four main characteristics under Article 15. Firstly, the emergency must be actual or imminent; secondly, its effects must involve the whole nation; thirdly the organised life of the community must be threatened; and finally, the ad hoc crisis or danger must be exceptional so that the ordinary measures or restrictions afforded by the convention for the maintenance of public health, safety, and order are manifestly inadequate.⁸⁶

On the same note, the UN Human Rights Committee, in its General Comment 5/13 in Article 4 of the ICCPR stipulated that an alleged emergency will allow grounds for derogation under Article 4, solely if the relevant circumstances are of an exceptional and temporary nature.⁸⁷ For any cases presented before the Committee, the State has full responsibility for providing evidence that the requirements, set forth in the Optional Protocol, have been duly fulfilled.⁸⁸ It should be mentioned that the principles encapsulated in General Comment 5/13 were revised and ex-

⁸³ Ibid. Para 96, at 101 (Commission member Ermacora, dissenting).

⁸⁴ A Royal Decree n 280, which the King Constantine II did not approve and which, besides suspending basic constitutional rights, also established martial law. Alexandre C. Kiss ; Végléris, Phédon, 'L'affaire grecque devant le Conseil de l'Europe et la Commission européenne des Droits de l'homme' [The Greek case before the Council of Europe and the European Commission of Human Rights] (1971) 17 *Annuaire Français de Droit International* (in French) 889

⁸⁵ ECtHR, *The Greek Case: Report of the Commission* (1969).

⁸⁶ *Lawless* (no 79), para 153, at 81.

⁸⁷ Report of the Human Rights Committee, UN GAOR Human Rights Comm., 36th Sess., Annex VII, General Comment 5/13, at 110, UN Doc. A/36/40 (1981).

⁸⁸ Jaime Oraá, 'Human Rights in States of Emergency in International Law' (1992) 63 (1) *British Yearbook of International Law*, 485 in Oren Gross and Fionnuala Ní Aoláin, *International human rights and emergencies* (Cambridge University Press, 2006) 250.

tended in the new General Comment 29,⁸⁹ and were used during the COVID-19 pandemic by several countries.

More precisely, in its General Comment no 29 of states of emergency⁹⁰, the UN Human Rights Committee clarifies that for a State to invoke Article 4 two fundamental conditions must be met a priori: first, the situation must amount to a public emergency which threatens the life of the nation, and second, the State party must have officially proclaimed a state of emergency with the latter being a *sine qua non* condition for the maintenance of the principles of legality and the rule of law.

When proclaiming a state of emergency with consequences that could entail derogation from any provision of the Covenant, states must act within their constitutional and other provisions of law that govern such proclamation and the exercise of emergency powers; it is the task of the Committee to monitor the laws in question with respect to whether they enable and secure compliance with article 4. In order for the Committee to perform its task, states parties to the Covenant should include in their reports submitted under article 40 sufficient and precise information about their law and practice in the field of emergency powers.⁹¹

Proclaiming a state of emergency offers a certain amount of leeway to probable grounds for derogation from any provision of the Covenant. Therefore, States are expected to act within their constitutional (and other) provisions of law that govern such proclamations and enable the use of emergency powers. For the Committee to monitor the laws in question and evaluate their compliance with Article 4, the Covenant State parties are expected to submit a detailed report under Article 40 in respect to their law and practice in the field of emergency powers.

Yet, following the announcement of 11 March 2020 by the WHO proclaiming COVID-19 as a pandemic posing a significant danger to the public, the notifications board of the Council of Europe, as of 2 April 2020, included only Latvia, Armenia, the Republic of Moldova, Estonia, Georgia, Albania,⁹² North Macedonia and Roma-

⁸⁹ UN Human Rights Committee (HRC), *CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency*, 31 August 2001, CCPR/C/21/Rev.1/Add.11, available at: <https://www.refworld.org/docid/453883fd1f.html> (last accessed 20 June 2021).

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² On 24 March 2020, the Council of Ministers of the Republic of Albania decided to declare a state of natural disaster to ensure the containment of the spread of COVID-19 throughout its territory. The aim of the decision was to ensure epidemiological safety, restrict the spread of COVID-19 and ensure public

nia in the list of countries which had notified the Secretary-General regarding their emergency measures.⁹³ The *notes verbales*' content involved measures reasoning the necessity to derogate from obligations under Articles 8 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (CPHR), Article 2 of Protocol to CPHR, and Article 2 of Protocol no 4 to the CPHR. In addition, pursuant to Article 15, paragraph 3 of the CPHR, the States were engaged to inform the Secretary-General of the Council of Europe about any future developments with respect to the emergency situation.⁹⁴ It was noted that Italy, France, Germany, Spain, Greece, Cyprus, and other States did not notify the Council of Europe, although notifications are legally required and are expected to be immediate. Failure to comply with the notification obligation could constitute a breach of international law, as well as of human rights law and refugees and migration law, which could cause confusion to the judgement and decision-making of international bodies, raising questions as to whether State measures are in conformity with principles, norms, and standards of international law and the international legal order.

A. Derogation: an Exodus for Violation Exemptions in Times of Emergency

Even though the UDHR has no derogation clause, international human-rights treaties contain derogation clauses which serve governments in prompting action when threats to the nation impinge upon human safety and security. Exceptional measures allow for the extension of the legal regime through derogations and encapsulate such exceptional cases. The intention is to ensure that actions taken under a state of emergency remain governed by independent norms which can be supervised by independent tribunals.⁹⁵ Decisions to extend the legal regime to facilitate emergency action have received strong objections based on the allegations that fundamental rights and the rule of law shall remain to the constitutional system's power to act and allow for extra-legal emergency action. These objections are based

health at a national level. The decision of the Council of Ministers restricted certain fundamental human rights and freedoms enshrined in Articles 37, 38, 41, paragraphs 4, 49, 51 of the Constitution of Albania. The state of natural disaster began on 24 March 2020.

⁹³ Council of Europe, 'Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) Notifications under Article 15 of the Convention in the Context of the COVID-19 Pandemic' (Status as of 30 April 2021) available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/99943603> (last accessed 20 June 2021).

⁹⁴ Ibid.

⁹⁵ Tom R. Hickman, 'Between Human Rights and the Rule of Law: Indefinite Detention and the Derogation Model of Constitutionalism', (2005) 68(4) *Modern Law Review* 657.

on the arguments that exceptional measures taken within a normative framework stymie the jurisdiction of the executive power and impair the fundamental principles of the ad hoc regime by interweaving the exceptional with the ordinary.⁹⁶ Yet, a constitutional regime should allow for exceptional measures to be taken in times of public emergency and for policies to be implemented, which would be subject to political accountability under the derogation and the limitations imposed on rights channels. These mechanisms were pervasively used during the COVID-19 pandemic and were misinterpreted, as States were relieved from their obligations against protected rights by placing them in abeyance without being subject to judicial supervision. However, Article 15 of the ECHR expressly determines that a derogating State should satisfy the two following conditions: first, that exceptional circumstances do in fact prevail, and second, that measures taken are in conformity with such an emergency and are strictly required by the exigencies of the situation. Certainly, the ‘strictly required’ phrase invites governments to demonstrate that all possible alternatives have been considered and that no less intrusive means exist.

Nevertheless, derogation mechanisms afford governments with an ‘exceptional exodus’ from treaty obligations resulting in a provisional crystallisation of rights. Hence, derogation from fundamental rights is excluded since it is not related to qualifications or limitations on rights defined in Article 8, paragraph 2 and Article 10, paragraph 2 of the Convention.⁹⁷ If States validly derogate from a human rights treaty, the very derogation itself exempts them from the obligation to abstain from violating rights and discharges them from the obligation to legally justify any probable interference with such rights. In fact, a state of emergency does not justify grounds for interferences with rights, but it poses the question of whether a justification is required at all, as when the application of measures that is validly in derogation is subject to legal supervision, it is not, at the same time, subject to supervision on human rights grounds.⁹⁸

Therefore, the recourse to a derogation generates a *lacuna* between the rule of law and fundamental human rights which is further amplified by allowing governments to diverge from the human-rights regime, while their action remains within

⁹⁶ The ad hoc argument is founded on the Jackson, J., dissenting *Korematsu v. U.S.* 232 US 214 (1994), 244, 46 (Justice Jackson asserted his view that civilian courts should refrain completely from making substantive assessments of military judgments based on concerns about expertise, practicality, and the distorting effect on constitutional law).

⁹⁷ UNHRC (no 89).

⁹⁸ Hickman (no 95) 659.

the law and subject to judicial supervision. Under these circumstances, derogation generates a twofold constitutional system in a way that, although both systems are under the umbrella of the legality regime, only one is under the human-rights regime that entails a gap between legality and human rights.

In conclusion, COVID-19 exacerbated the complex 'Cyprus problem' on a number of levels. First, it revealed multidimensional concerns, gaps and inadequacies nested within the political and legal system of Cyprus, where the government was called upon to respond, as a matter of urgency, to a new type of crisis. In this context, substantial deviations from the core regulatory model incorporated into the derogation regime directly or indirectly affected Constitutional provisions, while ministerial decrees and policy-making decisions were mandated to cope with the pandemic crisis.

Second, migration and conflict, two of the most prominent elements of Cypriot history, were also faced with challenges. In the migration field, COVID-19 has been the triggering event for breaches on the international treaty obligation towards asylum-seekers. The fact that Cypriot migration policy is bound to EU policies and the Turkish-Cypriot to the Turkish policies, it creates uneven dynamics due to the lack of communication and coordination between the two areas and the fact that the policing of migration is directly related to the status of the Green Line and the deep-rooted territorial dispute. The third component discussed was the unexploited opportunity that arose from the pandemic crisis and could potentially lead to strengthening cooperation and coordination between the north and the south; this is in large part due to the lack of strong public backing of cooperative mechanisms and an overall unwillingness to engage.⁹⁹

Consequently, on the legal and political response, a more holistic approach to the multifaceted emergency regime is required, demarcating where the emergency's boundaries begin and where they end. The identification of such ring-fenced boundaries detailing the razor's edge between states of emergency and public strife is imperative in understanding the amplitude of the emergency and how it evolves, ensuring, at the same time, greater accountability and transparency when emergency powers are set in motion. Moreover, under such emergency circumstances, checks should not fail to adequately address the potentiality of abuses of the derogation privileges, government management during crisis, and citizen rights viola-

⁹⁹ Erol Kaymak & Neophytos Loizides, 'COVID-19 in Cyprus', *Panorama* (2 June 2020), available at <https://www.uikpanorama.com/blog/2020/06/02/covid-19-in-cyprus/> (last accessed 18 June 2021).

tions, while States should not be ‘relieved’ from their obligations against protected rights by placing them in abeyance without being subject to judicial supervision.

Furthermore, the new migration and asylum policy introduced in January 2020 does not seem to provide for a better handling of the issue. Cypriot authorities, for the first time in 2020, carried out pushbacks of boats carrying mainly Syrians, Lebanese and Palestinians. Following the Country’s report, 9 pushbacks were carried out in total fact that indicates the necessity for an effective asylum and immigrant system reform in conjunction with a broader reform of the Dublin system; an asylum and immigration system approach which not only protects but also safeguards fundamental rights, principles, and freedoms.

Ultimately, the mismanagement of the pandemic crisis and the unilateral closure of crossing points further withered hopes for reunification of the divided island. However, the ‘behest’ to open the border crossings could influence decision-makers and even proffer new confidence-building measures, while the bicommunal technical committee structures could act as a foothold in reenergising communications and coordination as a novel step towards interweaving a future of unity.

References

- Agamben, G., *State of Exception* (London: University of Chicago Press, 2005).
- Andreou E., ‘Coronavirus: Guterres Expects Joint Agreement on Reopening Crossing Points’, (*Cyprus-mail*, 14 May 2020), available at <https://cyprus-mail.com/2020/05/14/coronavirus-guterres-expects-joint-agreement-on-reopening-crossing-points/> (last accessed 18 May 2020).
- Bernhard S., ‘Proportionality’ in M. Rosenfeld & A. Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law* (Oxford: Oxford University Press, 2012) 719-36.
- Cottier T. & Ors, ‘The Principle of Proportionality in International Law: Foundations and Variations’ (2017) 18(4) *The Journal of World Investment and Trade* 628-72.
- Emilianides A. C., *Constitutional Law in Cyprus* (The Hague: Kluwer, 2013).
- Emilianides A. C., ‘The Doctrine of Necessity, 50 years After: ‘Reflections on the Cypriot zeroth law’ in A. Emilianides, C. Papastylianos, and C. Stratilatis, *Republic of Cyprus and the Doctrine of Necessity* (Athens: Sakkoulas Publications, 2016).

- Gostin L. O., 'When Terrorism Threatens Health: How Far Are Limitations on Human Rights Justified', (2003) 31 *Journal of Law, Medicine and Ethics* 524-8.
- Hart H. L. A., *The Concept of Law* (3rd edn, Oxford: Oxford University Press, 2012).
- Hadjoioannou B., 'Coronavirus: Full Text of Address of President Anastasiades Announcing the Lockdown' (*In-Cyprus*, 24 March 2020), available at <https://in-cyprus.philenews.com/coronavirus-full-address-of-president-anastasiades-announcing-the-lockdown/> (last accessed 22 May 2020).
- Hickman T. R., 'Between Human Rights and the Rule of Law: Indefinite Detention and the Derogation Model of Constitutionalism', (2005) 68(4) *Modern Law Review* 654-80.
- Kombos C., *The Doctrine of Necessity in Constitution Law*, (Athens-Thessaloniki: Sakkoulas Publications, 2015) 173-8.
- Kombos C., *The Doctrine of Necessity in Constitutional Law* (Athens: Sakkoulas, 2015).
- Kombos C., *The Impact of EU law on Cypriot Public Law* (Athens: Sakkoulas, 2015).
- Kombos C., *Covid-19 and the Cypriot Example: A Constitutional Paradox*, 7 May 2020, available at <https://ukconstitutionallaw.org/2020/05/07/constantinos-kombos-covid-19-and-the-cypriot-example-a-constitutional-paradox/> (last accessed 10 June 2020).
- Mezzadra S., B. Neilson, *Border as Method, or, The Multiplication of Labor* (Duke University Press, 2013) 1-27.
- Michael S. M., 'Dialogue Remains Critical as Hopes Rise for Cyprus' (*IPI Global Observatory*, 19 August 2015), available at <https://theglobalobservatory.org/2015/08/cyprus-akinci-anastasiades-united-nations/> (last accessed 16 May 2020).
- Oraá J., 'Human Rights in States of Emergency in International Law' (1992) 63 (1) *British Yearbook of International Law*, 485 in Oren Gross and Fionnuala Ní Aoláin, *International human rights and emergencies* (Cambridge University Press, 2006) 250.
- Papastylianos C., 'The Cypriot Doctrine of Necessity within the Context of Emergency Discourse: How a Unique Emergency Shaped a Peculiar Type of Emergency Law' (2018) 30(1) *The Cyprus Review* 113-44.

- Polyviou P. G., *The Case of Ibrahim, the Doctrine of Necessity and the Republic of Cyprus* (Nicosia, 2015) 35-45.
- Shaelou S. L. & A. Manoli, 'The Islands of Cyprus and Great Britain in Times of COVID-19 Pandemic: Variations on the Rule of Law 'In and Out' of the EU' *UCLan School of Law* (1 June 2020), available at <https://lawblog.uclancyprus.ac.cy/the-islands-of-cyprus-and-great-britain-in-times-of-covid-19-pandemic-variations-on-the-rule-of-law-in-and-out-of-the-eu/?cn-reloaded=1> (last accessed 8 June 2020).
- Trimikliniotis N., *Cyprus As A New Refugee "Hotspot" in Europe? Challenges for a Divided Country*, (2019), available at <http://library.fes.de/pdf-files/bueros/zypern/16001.pdf> (last accessed 21 May 2020) 1-9.
- Trimikliniotis N., 'The Cypriot "Doctrine of Necessity": A (Non-)Democracy in a State of Exception?' ('Το Κυπριακό "δόγμα της ανάγκης": Μια (μη-)δημοκρατία σε κατάσταση εξαίρεσης;'), *Περιπέτειες Ιδεών*, (2007) 15 *Politis* (in Greek).
- Trimikliniotis N., 'Exceptions, Soft Borders and Free Movement for Workers'. in P. Minderhoud and N. Trimikliniotis, *Free Movement of Workers: The European Challenges Ahead* (Nijmegen: Wolf Legal Publishers, 2009) 135-154.
- Truong N., 'Giorgio Agamben: "The Epidemic Clearly Shows That the State of Emergency Has Become the Normal Condition"' ('Giorgio Agamben: "L'épidémie montre clairement que l'état d'exception est devenu la condition normale"') (*Le Monde*) 24 March 2020, available at https://www.lemonde.fr/idees/article/2020/03/24/giorgio-agamben-l-epidemie-montre-clairement-que-l-etat-d-exception-est-devenu-la-condition-normale_6034245_3232.html (last accessed 27 March 2020) (in French).
- Tornaritis C. G., 'Peculiarities of the Cyprus Constitution and Impacts on the Smooth Operation of the State' ('Ιδιορρυθμίες του Κυπριακού Συντάγματος και Επιπτώσεις στην Ομαλή Λειτουργία του Κράτους') (1979) 5 *Cyprus Legal Podium* (*Κυπριακό Νομικό Βήμα*) (in Greek) 6-9.
- Tornaritis, C. G., *Cyprus and its Constitutional and Other Legal Problems* (2nd edn, Nicosia, 1980) 54-66.
- Walters W., 'Anti-Illegal Immigration Policy: The Case of the European Union', in C. Gabriel and H. Pellerin (eds), *Governing International Labor Migration, Current Issues, Challenges and Dilemmas* (London: Routledge, 2008) 43-58.

Pandemic Entanglement: COVID-19 and Hybrid Threats in the Republic of Cyprus

PETROS PETRIKKOS¹

Abstract

How have modern threats and challenges manifesting during the COVID-19 pandemic affected the Republic of Cyprus at state and societal levels? What are the links between new security challenges and existing conventional conflicts? COVID-19 has spread anxiety, fear, and misleading information, and it has brought forth new challenges and concepts in how we understand security. This paper examines how these challenges are rooted in a security struggle of hybrid-threat entanglement in the Republic of Cyprus during the COVID-19 pandemic, specifically in the first two waves from March to October 2020. Specifically, the paper views COVID-19 itself as a hybrid threat that has bred a range of security issues of the Republic of Cyprus. Hybrid threats are of a multitudinous nature. When hybrid threats like a pandemic virus disrupts the wider security and routinised processes in everyday life, states and societies become trapped in a process of security entanglement: one type of threat becomes interlinked with other processes. When this process of security entanglement is neglected or overlooked (thereby avoiding disentangling), policy at large is affected, be it a State's foreign, economic, or security policy. As a result, society itself is affected.

Keywords: conflict, COVID-19, Cyprus, hybrid threats, insecurity, security entanglement, society, state, pandemic

Introduction

In an unprecedented move due to the rapid spread of SARS-CoV-2², the Republic of Cyprus (RoC) decided to shut down the checkpoints connecting it with the unrecognised breakaway regime of the 'Turkish Republic of Northern Cyprus' for the first

¹ PhD candidate, School of Law, University of Nicosia; Research Associate, Diplomatic Academy, University of Nicosia.

² See the World Health Organisation (WHO), 'WHO Director-General's Opening Remarks at the Media Briefing on COVID-19' (11 March 2020) available at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last accessed 11 August 2020).

time since 2003.³ A wave of reactions from activists condemning the move followed, with the majority of people protesting and clashing with the police near the Ledra Street checkpoint.⁴ Oftentimes, people misinterpret a given crisis and may react negatively to changes in their lifestyle and routine. The closing of checkpoints in late February 2020 was reported by a number of reputable media like Reuters as something that was ultimately rushed, as RoC had reported ‘no cases’ of the virus. It also overwhelmingly presented the activist point of view.⁵ With hindsight, nonetheless, as cases are nearing 1,500 at the time of writing, restrictions had indeed to be upheld as a method of public health management.⁶

The COVID-19 pandemic is not a mere crisis that has generated only health security concerns. It is important to take a step back and see how this pandemic has managed to affect the Cyprus conflict, as well as the state and society of RoC in various ways. Traditionally, International Relations literature has focused on the more imminent, conventional threats that conflict cases like Cyprus have experienced: that of mass military upheaval, arms races, pre-emptive security measures, and crude balance of power. However, COVID-19 has moved beyond that, incorporating both conventional and unconventional, military and non-military means, through which political actors can achieve a political end. The use of the social dimension of the pandemic, therefore, has acted as a hybrid threat catalyst through which political actors have been able to utilise the crisis to achieve political objectives that pose considerable risk to human security in the process.⁷ Within the first few days of the pandemic, the RoC authorities responded with restrictive measures on society, airports, and general transportation and movement, to tackle, prevent, and delay the spread of COVID-19. The measures, which had been introduced as early as early March, eventually became stricter and stricter. They came out in the form of Ministerial Decrees, although they were also initially announced by the President of the Republic in live

³ Michelle Kambas, ‘Cyprus to Shut Checkpoints for the First Time Since 2003 Over Coronavirus’ *Reuters* (28 February 2020), available at <https://www.reuters.com/article/us-china-health-cyprus-checkpoints/cyprus-to-shut-checkpoints-for-first-time-since-2003-over-coronavirus-idUSKCN20M1T6> (last accessed 10 August 2020).

⁴ DW, ‘Cyprus: Protesters, Police Clash at Closed Checkpoint’ *Deutsche Welle* (7 March 2020), available at <https://www.dw.com/en/cyprus-protesters-police-clash-at-closed-checkpoint/a-52678119>.

⁵ *Ibid.* See also Kambas (no 2).

⁶ See the up-to-date infographic map for the COVID-19 spread in Cyprus at <https://covid19.ucy.ac.cy/>.

⁷ Maria Mälksoo ‘Countering Hybrid Warfare as Ontological Security Management: The Emerging Practices of the EU and NATO’ (2018) 27(3) *European Security* 377

televised speeches.⁸ By mid-March, the measures included a full lockdown with curfews, except for businesses and workers with special permits. Non-essential business operations were also suspended, whereas others began adopting a remote-working business model. Public events were suspended too, whereas gatherings in indoor spaces, which were first limited, were eventually also banned, as households had to be restricted in the confines of their own residences.⁹

However, one begs to ask the question: what is the link between the pandemic and new security challenges in conflict cases? The background through which this study makes a case of new security challenges for both states and societies alike in ongoing conflict scenarios is linked to the concept of entanglement. ‘Security entanglement’ as a conceptual framework offers a more holistic analysis of identified hybrid threats in an interdisciplinary field. The process through which security threats become blurred with the political life and other safety concerns is the point at where the entanglement takes place. A constant theme that presents itself as rather challenging during entanglement is to identify the presence of modern security threats at a time when the affected actor (be it the state or society) might be unaware that it is under threat. It is important to identify how and why the entanglement of security concerns is a policy and societal concern.

This paper critically evaluates current practices when assessing hybrid threats and their associations to pandemics and the creation of new security challenges for conflict cases in the surge of COVID-19. The main contribution is theoretical and addresses the gap in Security Studies and the world of policymaking via a critical security approach. Empirically, the findings also attempt to portray the security vulnerabilities presented during pandemics. Furthermore, the paper focuses mostly on the case of RoC during and after the lockdown for the period between March and October 2020. The paper is a preliminary project that first attempts to utilise the concept of entanglement as a security framework, and to subsequently establish

⁸ On the Ministerial Decrees, see Press and Information Office, ‘COVID-19: Decrees’ (2020), available at <https://www.pio.gov.cy/coronavirus/eng/categories/decrees> (last accessed 23 June 2021). See also examples of how the President issued announcements at the Press and Information Office, ‘Press Releases: The President of the Republic Addresses the Cyprus People on the Issue of Coronavirus’ (13 March 2020), available at <https://www.pio.gov.cy/en/press-releases-article.html?id=12649#flat> (last accessed 10 August 2020) and Staff Reporter, ‘Coronavirus: President to Announce New Measures at 8:30pm’ *Cyprus Mail* (29 April 2020), available at <https://cyprus-mail.com/2020/04/29/coronavirus-president-to-announce-new-measures-at-8-30pm/> (last accessed 10 August 2020).

⁹ Christiana Cleridou, ‘COVID-19 and Labour Law: Cyprus’ (2020) Special Issue (‘COVID-19 and Labour Law: A Global Review’) 13(1) *Italian Labour Law e-Journal* 1-2.

clearer links between new security challenges and existing conventional conflicts like that of Cyprus. As such, comparisons to other countries and how their agendas and policies are shaped due to security entanglement may be drawn in future research.

The first section of this paper builds the preliminary connection between the pandemics in conflict cases and hybrid threats. To be more precise, it lays out the hypothesis and the driving factor of this analysis: COVID-19, as a global health crisis, breeds a spill-over of security threats that are hybrid in essence *and* have the potential of bringing new security challenges to ongoing conflict cases. The second section deals in greater detail with the theoretical framework of security entanglement that establishes the foundation of the argument. The next section provides an elaborate application of the framework on the case of RoC (its state and society) and paints a clearer picture on how modern (hybrid) threats affect not just Cyprus, but also other cases today. This is an empirical testimony that should prove useful for the wider field of Security Studies today. The last part includes recommendations and offers preliminary suggestions that can be utilised for further study in this field.

Pandemics and Conflict in Cyprus

The COVID-19 pandemic can be seen as a blessing in disguise. It has helped speed up wide accessibility and use of online digital technologies throughout RoC. Moreover, businesses have made adaptations to their models to accommodate new practices in remote working. The state itself responded relatively fast by developing business aid packages and investing heavily into services like healthcare. On the other hand, the pandemic has generated numerous insecurities. It has slowed down economic progress, while also endangering the economy itself. The financial impact is expected be rather severe in the months to come. The issue with the novel coronavirus as an international threat is highlighted in the global gaps in the healthcare system. Healthcare budgets vary from country to country, so it is safely assumed that the response level would also vary from country to country. Researchers and decision-makers recognise that this is an important limitation which may prevent effective public-health management.¹⁰ More striking, however, is the statement of the October 2019 Global Health Security Index (GHS) that highlights how no country is really prepared for

¹⁰ Erwin J. Khoo and John D. Lantos, 'Lessons Learned from the COVID-19 Pandemic' (2020) 109(7) *Acta Paediatrica* 1323.

epidemics or pandemics of any sort.¹¹ Therefore, despite the level of spending, no country is actually at the desired level when dealing with pandemics.

Why are these developments important to note? The case of RoC is of interest due to a plethora of security issues of a non-conventional nature that have been left unaddressed. Nonetheless, this 'frozen' conflict is not particularly unique when compared to other territorial disputes, such as those between Greece and Turkey, Armenia and Azerbaijan over Nagorno-Karabakh, or India and Pakistan over Kashmir. These conflicts also are highly diverse, with different security challenges and needs. However, the entangled security nature of the pandemic has the potential of bringing forth some change in cases like Cyprus. For one thing, the Cyprus conflict has seen no real change in decades. The conflict itself remains at the top of the RoC security agenda and is equally the primary political discussion item across the public. Therefore, other security issues may easily go unnoticed.

In practice, however, there is a serious challenge for policymakers. The relationship between security referent objects and the situation through which they arise and are framed through hybrid threats becomes blurred primarily because of its own ontological setting being radically perplexed and mixed with other security issues. Simply put, there is no independence and not just mere interdependence across these security issues: they stop being separate phenomena and are thought of as one single entity.¹² What is particularly problematic is that such security threats are often ignored in the presence of larger *perceived* threats that may take up much of a state's security agenda and are treated as one, single event.¹³ Cyprus as a conflict case is often examined primarily through a rationalist lens that focuses on the rule of law, state sovereignty, and issues of power and balance in the international system.¹⁴ These accounts include, inevitably, those within the school of

¹¹ Global Health Security (GHS) Index, 'Inaugural Global Health Security Index Finds No Country Is Prepared for Epidemics or Pandemics' (24 October 2019), available at <https://www.ghsindex.org/news/inaugural-global-health-security-index-finds-no-country-is-prepared-for-epidemics-or-pandemics/> (last accessed 10 August 2020).

¹² Stefan Elbe and Gemma Buckland-Merrett, 'Entangled Security: Science, Co-Production, and Intra-Active Insecurity' (2019), 4(2) *European Journal of International Security* 126.

¹³ For further analysis on how States may prioritise such security objectives over others, see Constantinos Adamides, 'The Challenges of Formulating National Security Strategies (NSS) in the Presence of Overarching Existential Threats' 30(1) *The Cyprus Review* 71, 73-74.

¹⁴ For a detailed account, see James D Fearon, Alexander Wendt, 'Rationalism v. Constructivism: A Sceptical View' in Walter Carlsnaes, Thomas Risse, Beth A. Simmons (eds.) *Handbook of International Relations* (London: SAGE Publications) 54-55.

Realist thought or political scientists studying the conflict from a narrow, domestic, in-Cyprus scope and not necessarily a systemic view. Such views equally include manifestations of a balance of power, alliance-building, and the geopolitics of Eastern Mediterranean,¹⁵ a ‘security imbalance’ between the Greek and Turkish Cypriot communities of Cyprus,¹⁶ as well as traditionally-perceived threats like Turkey.¹⁷ Nevertheless, COVID-19 has also shown other security vulnerabilities that must be drawn out to the spotlight. In studying the interplay of security structures and the impact anxiety and uncertainty have on societal and state-level identity, and in borrowing the phrase ‘chaos is a ladder’¹⁸, it becomes easier to understand how COVID-19 has moulded new security challenges for frozen conflict cases like Cyprus. As this study will demonstrate, security and threats today go further beyond the conventional understanding of the past.

The study uses the relatively new concept of *security entanglement* as an analytical tool that explains how security threats become interlinked. This is particularly important, for reasons including but not being limited to:

- (a) helping policymakers and researchers identify how health-related threats like COVID-19 can be linked to other modern threats;
- (b) *disentangling*, and therefore, clearing up the blur between policy and *hybrid threats*;
- (c) taking protective and/or pre-emptive measures against such threats; and
- (d) understanding how pervasive misperception leading to miscalculation because of mis/disinformation practices pose a serious security challenge.

¹⁵ See Charalambos Tsardanidis and Yannis Nicolau, ‘Cyprus Foreign and Security Policy: Options and Challenges’ in Stelios Stavridis et al. (eds.) *The Foreign Policies of the European Union’s Mediterranean States and Applicant Countries in the 1990s* (Basingstoke: Macmillan Press Ltd, 1999) 171. See also Zenonas Tziarras, ‘Israel-Cyprus-Greece: A “Comfortable” Quasi-Alliance’ (2016)21(3) *Mediterranean Politics* 411.

¹⁶ James Ker-Lindsay, ‘The Security Dimensions of a Cyprus Solution’ *Hellenic Observatory Papers on Greece and Southeast Europe, GreeSE Paper No 19* (The Hellenic Observatory, The London School of Economics and Political Science, 2008) p. 4.

¹⁷ For a traditional Realist IR understanding of how the Cyprus problem becomes, at large, the core perceived security threat, see Giorgos I. Kentas, ‘A Realist Evaluation of Cyprus’ Survival Dilemma as Result of the Annan Plan’(2003) 15(2) *The Cyprus Review* 13-63.

¹⁸ See a theoretical and fictional application of ‘chaos is a ladder’ in the security and political sense in Ronnie Olesker, ‘Chaos is a Ladder: A Study of Identity, Norms, and Power Transition in the Game of Thrones Universe’ (2020), 22(1) *British Journal of Politics and International Relations*, 47, 59-60

The Entanglement of People, States, and (In)Security

How do we witness the manifestation of new security norms? More pragmatically, how do new security issues become intertwined with conventional security issues and what does this mean for conflict dynamics? Security has grown into a complex, ontological issue. For one thing, it is not merely about direct existential threats that actively deal with the issue of survival. For the sake of debate, traditional security studies would dictate that if Country A, a small state, was threatened by Country B, an advanced and militarily superior state, and the former's own survival depended on external forces beyond its control, it would not be odd to assume that Country A could eventually be experiencing a constant, ecstatic state of terror and of the fear of losing everything. Such fear would even be considered a drive of reaction in traditional notions of security and survival, simply because Country A would be forced to uphold its own interests and attempt to adopt new strategies, form strong alliances for protection, and so on.¹⁹ In this simplified scenario, Country A faces one single existential threat (Country B). As it becomes evident that the sole security interest is to uphold the state and its territorial sovereignty, it is mandatory for Country A to do its best in ensuring its survival. Even so, the way we discuss security today includes a richer bunch of twists.

The starting point of this understanding is rooted in *People, States and Fear* by Barry Buzan, which has paved the way for an innovative security framework, aligned with the Copenhagen School of Security Studies. In the original work of 1983, Buzan acknowledges that the concept of security has been underdeveloped due to the clash and polarisation of the mainstream International Relations theories that have focused on the issue of security. The literature, according to Buzan, has mainly focused on the dichotomy of power and peace.²⁰ Buzan's work is important for at least four main reasons. Firstly, for the first time, both state and society view and understand existential security concerns as an obstacle to their own growth and freedom, let alone survival. Secondly, the landscape is not only painted with military and political insecurities, but with economic and environmental ones as well.

Thirdly, Buzan not only looks at security as a whole, but he also attempts to break down potential vulnerabilities that are exhibited through security issues at state-level.

¹⁹ Kenneth N. Waltz 'The Origins of War in Neorealist Theory' (1988) 18(4) *The Journal of Interdisciplinary History*. 621.

²⁰ Barry Buzan, *People, States and Fear: The National Security Problem in International Relations* (Brighton: Wheatsheaf Books Ltd, 1983) 2-3.

el. In later work, Buzan, Waever, and de Wilde identify security as having more than just one face. Security is split up into the military, the environmental, the economic, the societal, and the political sectors.²¹ Vulnerabilities, then, are not simply a matter of defence and the military realm, as conventional approaches indicate, but are also manifest in other areas.²² Lastly, and perhaps most importantly, Buzan et al.'s work is a foundation for modern Security Studies scholars in how we interpret and understand security. Their work has inspired new security methods, albeit critical, which has broadened our scope far beyond conventional security practices.²³ This also means that the concept of security and its *perceived* existential threats are not often easily understood. States and societies also perceive security concerns in the *ontological* sense. This means they may have to deal with threats that mostly concern their own image and identity, as well as the narrative that justifies how they function in day-to-day life. In this sense, states and societies desire to preserve their self-perceived image and prefer to uphold and protect such identities by maintaining consistency. When the process is disrupted, an *insecurity* emerges, forcing both the state and the society to normalise new identities and incorporate them into their own narrative. Consequently, acting against these insecurities serves as a correcting mechanism that justifies the introduction of new norms.²⁴

In answering the question of how we observe and understand new entangled security issues for conflict cases, it is important to understand the given context and structure. The absence of reliable means of communication, basic services, health amenities, and so on, generates insecurity that the state and society need to address. According to Aradau, '[m]aterial objects appear to support the provision of services, societal cohesion, and the reproduction of national identity'.²⁵ In Cyprus, for example, the way in which the European identity has manifested itself is through the

²¹ See Barry Buzan et al., *Security: A New Framework for Analysis* (London: Lynne Rienner Publishers, 1998).

²² This paper touches upon these sectors in the empirical section by providing relevant examples in how hybrid threats manifest in Cyprus during the examined period (March-August 2020). The emphasis here, nonetheless, is on the societal sector, which shapes the political sector, *inter alia*.

²³ Examples include the evolution of concepts like 'securitisation' and 'Regional Security Complexes Theory' (RSCT). See also Barry Buzan et al. (no 21) and Barry Buzan and Ole Waever, *Regions and Power: The Structure of International Security* (Cambridge: Cambridge University Press, 2003).

²⁴ Brent J. Steele, *Ontological Security in International Relations: Self-Identity and the IR State* (London: Routledge, 2018) 2-3, 12-13.

²⁵ See Claudia Aradau, 'Security That Matters: Critical Infrastructure and Objects of Protection' (2010) 41(5) *Security Dialogue* 491-492.

European market that has embraced Cyprus through EU membership. In sustaining such an identity, the material world normalises these relationships formed to understand foreign relations, as well as to politicise security concerns over critical infrastructure that includes communications, hospitals, transportation, and so on.²⁶ A disruption in these crucial services triggers a response in which the state needs to, in order to prioritise and accommodate new needs and maintain its own existence. In the case of COVID-19, the health crisis accumulated and catalysed new challenges, such as accommodating the sick, seeking new economy stimulus packages to overcome a potential slump, and to engage with the wider society in campaigns over the newly introduced restrictions of the pandemic. As a result, a new identity is formed under this pretext. This new identity is a response to the new security challenges that are not solely conventional in nature.

However, understanding the concerns of the state differs from understanding those of society in some respects. Some security concerns are politicised due to upward mobilisation starting at the societal level. In line with the Copenhagen School, the societal level of security has often been unaddressed due to the focus on the state as the unit of analysis.²⁷ Societies have their own identity, as a collective, as individuals, and as communities. Despite this, to best understand how society operates with what norms it identifies, and consequently, what its societal insecurities are, we need to consider the workings of society as a collection of these groups. *Fear* (and more accurately, *the prospect of fear* generated by anxiety), is a complementary tool that enhances this process in groups. Fear, on the one hand, is capable of generating vulnerabilities. By creating insecurities, fear as such creates a ‘deep, incapacitating state of not knowing which dangers to confront and which to ignore, i.e. how to get by in the world’²⁸. This adds to the notion of *anxiety*, which is crucial for understanding entanglement. It cannot be quantified, nor does it always encompass a fixed, predetermined, and defined object. In fact, anxiety embraces ‘*multifinality*, admitting to a range of emotions, including excitement and anticipation, and a variety of behaviors, from compulsive repetition, to acting out, to paralysis, to entrepreneurship’.²⁹ Distinguishing between the two is important in understanding

²⁶ Ibid., p. 501.

²⁷ Buzan et al. (no 21) 119.

²⁸ Jeniffer Mitzen, ‘Ontological Security in World Politics: State Identity and the Security Dilemma’ (2006) 12(3) *European Journal of International Relations* 345.

²⁹ Catarina Kinnvall and Jennifer Mitzen, ‘Anxiety, Fear, and Ontological Security in World Politics: Thinking with and Beyond Giddens’ (2020) 12(2) *International Theory* 241 (emphasis added).

meaningful action when dealing with existential threats: if we are talking about a generated fear, this often involves a response of ‘fight or flight’; if we are talking about anxiety, we should be looking at breaking down the concept further.³⁰

On the other hand, fear and anxiety, though separate concepts, can both be weaponised in the same fashion. The distribution of fear from and within the state and society can be achieved by drawing attention to an already-politicised matter and shaping it into an existential threat. Consequently, and to paraphrase Freud, distrust and insecurities in society are generated through a morbid process of anxiety.³¹ Things like migration, for instance, have often been regarded with hostility because of such processes.³² The presence of fear and anxiety intertwined makes these issues difficult to disentangle, as there are no guarantees for steady protection against the possibility of such threats.

Even so, these are merely the foundations of the theoretical framework employed. As it has already been mentioned, security and modern threats are conceptualised in an even more complicated way. As Alexander Wendt puts it, ‘by virtue of our entanglement from birth in social structures, human minds are not fully separable’³³. By expanding on this notion, we begin to equally understand how societies and states, in their quest of self-identification and establishing norms and rules, choose to interpret information from within a blurred blend in the confines of the social structures surrounding us³⁴. Taking this further, international politics and the need to establish security and order does not fall far from the same concept. Hybrid threats, then, blur the line between politics and warfare and transcend into multiple areas that affect one another, hence disturbing the norms of social relations and the organisation of life and communities³⁵.

³⁰ Ibid.

³¹ Sigmund Freud, ‘The Uncanny’ in James Stratchey (tr.), *The Standard Edition of the Complete Psychological Works of Sigmund Freud, Volume XVII (1917-1919): An Infantile Neurosis and Other Works* (London: The Hogarth Press and the Institute of Psychoanalysis, 1919) 252.

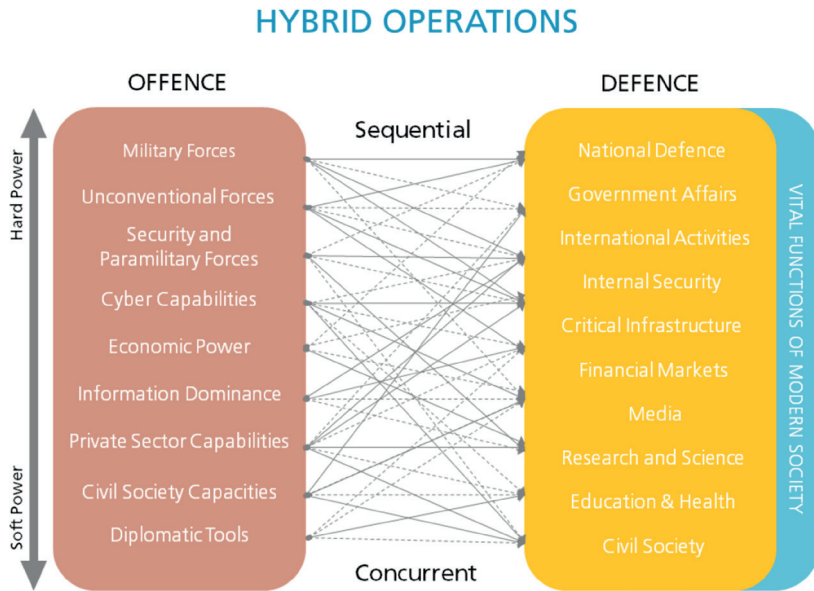
³² Jef Huysmans, *The Politics of Insecurity: Fear, Migration and Asylum in the EU* (London and New York, NY: Routledge, 2006) 47.

³³ Alexander Wendt, *Quantum Mind and Social Science: Unifying Physical and Social Ontology* (Cambridge: Cambridge University Press, 2015) 33.

³⁴ See Figure 1. Notice how the sequential and concurrent relationships blend.

³⁵ For additional explanations on how these social relations are disturbed due to fear and security concerns, see Jef Huysmans, ‘Security! What Do You Mean? From Concept to Thick Signifier’ (1998) 4(2) *European Journal of International Relations* 226-255.

Figure 1: Visualisation of hybrid threats from a state and societal perspective.³⁶



Up to this point, a connection has been established in how modern-security issues do not solely revolve around questions of military force, power, and quantitative approaches in resolving a crisis by employing a large military force. Entanglement, then, does not always involve the quantitative aspects of security threats, but a collection of these security concepts. This section first began by drawing in arguments of new security frameworks by Buzan. Then, it moved on to more critical approaches, demonstrating how complex security can be. When examining threat entanglement, we observe a plethora of tools and security issues mixing with politics. Simultaneously, each type of threat³⁷ has a different impact; it serves a different purpose and acts in a different way. As such, *security entanglement* can be understood as an attempt to secure the state and society from themselves. In the cyber realm, security entanglement also has a positive impact: it effectively blurs the decision-making process, thereby delaying cyber-attacks as well as other hybrid attacks, by altering perceptions and behaviours in relation to our surroundings.³⁸ Of course,

³⁶ Aapo Cederberg, Pasi Eronen, 'How can Societies be Defended against Hybrid Threats?' (September 2015) 9 *Geneva Centre for Security Policy (GCSP)* 5.

³⁷ The threats this paper examines can be found in the next (empirical) section on the case of Cyprus.

³⁸ Aaron F. Brantly, 'Entanglement in Cyberspace: Minding the Deterrence Gap' (2020) 16(3) *Democracy and Security* 211, 218.

this layer of defence can also backfire, as it becomes harder to break down how the perceived threat itself could manifest or how the actor responsible for causing vulnerabilities would choose to move next.

Entanglement, then, takes place because of growing insecurities and vulnerabilities in the hybrid sense. By going beyond mere physical security concerns, which has been the purpose of this theoretical framework, we come upon this very realisation: our own physical insecurities, which might have been at some point rooted in *physical* threats, have created new existential insecurities in the *ontological* sense.³⁹ When one force entangles another's ontological security, then the affected target is vulnerable. Security Studies as a whole, and as a subdiscipline of International Relations, has grown both methodologically and epistemologically, as well as ontologically, in understanding how the world works by establishing ethical responsibility.⁴⁰ The entanglement and disentanglement process highlights an extension of this ontological element at large: it allows for anticipation and speculation of the perceived existential threat, by breaking down and simplifying the complex, blurred process of security.⁴¹

Therefore, if we are no longer dealing with merely conventional threats, whatever happens to states and societies upon realising that there are more than one security concerns can be problematic. Traditional security concerns are normally left to the state itself to handle. In this case, however, the response from society also matters. In reaching the conclusion that security threats and concepts become entangled through our own doing, one begs to ask when and whether we should consider *disentangling* such processes. As Hamilton argues, the disentanglement of security creates 'an openness towards *multiple* (yet differentiated) beings that are affected by our *political* choices or actions'.⁴² Identifying all the different possible threats to the state and society breaks new paths and could help address the gap in the policymaking process when it comes to non-traditional and non-conventional threats. Consequently, disentangling is a process of breaking down the nexus of blurred, intertwined security processes and threats into simpler information that can be interpreted better, so that decisive action against threats can take place more easily.

³⁹ Scott Hamilton, 'Securing Ourselves from Ourselves? The Paradox of "Entanglement" in the Anthropocene' (2017) 68(5) *Crime, Law and Social Change* 580.

⁴⁰ Iver B. Neumann, 'International Relations as a Social Science' (2014) 43(1) *Millennium: Journal of International Studies* 337.

⁴¹ See Mitzen (no 29). See also Hamilton (no 38) 593-594.

⁴² See Hamilton (no 38) 592 (emphasis added).

There are dangers, nonetheless, when disentangling hybrid threats. What happens if we disentangle too much? *Can* we disentangle too much, if at all, in some cases? Disentanglement, as mentioned, helps experiment with additional options in the security and decision-making processes. This is achieved by placing distance between the security referent entity and the intended audience. The distance between these two is achieved by breaking up the security elements in question and clearing the blur. In other words, the process allows us to distinguish between multiple threats by distancing ourselves (the audience) from the threatened object (that is security-referent in nature). The less we relate to it, the easier it is to identify other threats. Despite this, there is a need for balance. If we completely disassociate ourselves from the threatened object, we might be unable to step in the moment a crisis is imminent, thus failing to ensure safety and security. Most interestingly, our ontological sense of security may also change in the process. Upon distancing ourselves, we are no longer able to perceive the same security threats and issues as before. An example of failed disentanglement takes us back to traditional security approaches and the State. More specifically, when we break down security too much, we might also be doing so at the expense of State and national sovereignty.⁴³

To go back to the fictional example given at the very beginning of this section, Country A is threatened by Country B. Country A in this scenario, however, is unaware that Country B is ready to directly launch its assault. Country A has effectively distanced itself from the reality of the situation and has ignored the imminent threat, that is, its sworn enemy, Country B, which is militarily superior in every way. If a threat has been left unchallenged and ignored for a prolonged period disentangling from such concerns can be fatal. A similar hypothesis is exerted in Schweller's *Unanswered Threats*, through the concept of 'underbalancing', which refers to states failing to understand or to react to the dangers they are exposed to⁴⁴. When states fail to disentangle, however, is not the same as having a clear threat and failing to respond or react to as such. The problem with hybrid threats is that they appear 'as an intensely relational and ontologically entangled phenomenon that does not exist prior to, nor independently of, its intra-action with other phenomena and agencies'.⁴⁵ Failing to disentangle is a real policy-oriented problem that emerges

⁴³ Didier Bigo, 'Internal and External Aspects of Security' (2006) 15(4) *European Security* 389 & 391.

⁴⁴ Randall L. Schweller, 'Unanswered Threats: A Neoclassical Realist Theory of Underbalancing' (2004), 29(2) *International Security* 159-160.

⁴⁵ Stefan Elbe and Gemma Buckland-Merrett, 'Entangled Security: Science, Co-Production, and Intra-Active Insecurity' (2019), 4(2) *European Journal of International Security* 123.

when the real danger itself is masked due to the blurred nature of security concerns. The existence of hybrid threats is what blurs the process, thus it should be emphasised that at least conceptually, not only states and societies cannot anticipate the extent to which action must be taken against a potential threat, but the threat itself is not clear either to other observers.

Cyprus and the Multifaceted Security Gaps

In addressing the challenges brought about by the lack of security disentanglement, the case study of Cyprus as a conflict and specifically the RoC comes into question. Traditionally, RoC has dealt with its own conflict as a security puzzle for the survival and the continuation of the state. As mentioned earlier, scholars and analysts have often focused primarily on the Cyprus conflict, disregarding other security issues in the process. Without downplaying the importance of the conflict in the political life, it is important to acknowledge other security issues and vulnerabilities that have been left unattended. This became particularly evident during the very first lockdown period in March-May 2020, where other threats and vulnerabilities started making a stronger appearance. Surely, the conflict itself plays a role in the security gaps in Cyprus, though it is not the sole vulnerability that should be addressed.

As the framework suggests, security does not merely follow a linear path, nor does it have a fixed position or universal understanding of policy. Even so, if security is then so complicated and multivariate when observed through a hybrid lens, why should we be considering COVID-19 as a hybrid threat, when in fact, it could simply be an issue of the international health system, and is, therefore, best left to other disciplines to deal with? Additionally, can we always disentangle these security concepts, and is it always beneficial to do so? In the case of Cyprus, it could be beneficial. The main issue, nonetheless, comes down to balance. Methodologically speaking, the process by which we begin breaking down these security issues for Cyprus is captured by (a) identifying how COVID-19 itself presents a considerable threat that changes the political life; (b) further identifying other threats that have run parallel to the pandemic and how these have exploited any vulnerabilities generated during the lockdown period; and (c) visualising these threats in an attempt to disentangle them and to put forward coherent solutions to overcome them.

Firstly, COVID-19 is a major health concern in itself and the reason is twofold. The most obvious impact it has is how infectious and lethal the disease is, alongside other serious health implications. As there is no consensus regarding the mortality rate just yet, the uncertainty this virus poses grows. Research is still underway, al-

though the political narrative on the virus has effectively been weaponised through disinformation and diplomatic tactics, both online and offline, to serve political interests. The United States (US), Russia, as well as China have all reacted differently to the pandemic. The US and particularly under former President Trump had, on the one hand, downplayed the severity of the crisis, as it originally dismissed the looming health dangers and their implications, whilst also being accused of using financial leverage to buy large volumes of medical equipment at the expense of other countries.⁴⁶ Simultaneously, according to EU documents shared with international press agencies, Russia has exploited the coronavirus crisis to launch targeted disinformation campaigns on the West, in order to stir up chaos.⁴⁷ Interestingly, we have also seen China actively using Western social media platforms at a time when everyone has conveniently decided to stay home as a pandemic safeguard. Targeted disinformation from China against Western audiences has also focused on boosting the Chinese image abroad via its diplomats and embassies, as well as through international English-speaking platforms, in an attempt to ‘counter Western narratives’.⁴⁸

Not only that, but this disinformation has also had a major effect on critical infrastructure. Characteristically, in March, there were only 126 intensive care beds available in RoC⁴⁹, which means that in the event these units reached maximum capacity, patients with serious symptoms or even other serious health complications would not have the adequate support they would require on time. At the same time, when doctors, nurses, and other medical staff get infected in the process, it becomes increasingly difficult to support other staff and to effectively monitor and contain the spread, as the availability of medical staff trained to deal with the symp-

⁴⁶ Scott L. Greer et al., ‘The Comparative Politics of COVID-19: The Need to Understand Government Responses’ (2020) 15(9) *Global Public Health* 1414. See also Klauss Dodds et al., ‘The COVID-19 Pandemic: Territorial, Political and Governance Dimensions of the Crisis’ (2020) 8(3) *Territory, Politics, Governance* 294.

⁴⁷ Robin Emmott, ‘Russia Deploying Coronavirus Disinformation to Sow Panic in the West, EU Document Says’ *Reuters* (18 March 2020), available at <https://www.reuters.com/article/us-health-coronavirus-disinformation/russia-deploying-coronavirus-disinformation-to-sow-panic-in-west-eu-document-says-idUSKBN21518F> (11 August 2020).

⁴⁸ Mark Scott, ‘Chinese Diplomacy Ramps up Social Media Offensive in COVID-19 Info War’ *Politico* (29 April 2020), available at <https://www.politico.eu/article/china-disinformation-covid19-coronavirus/> (last accessed 11 August 2020).

⁴⁹ In-Cyprus, ‘Coronavirus: Seven Patients in Intensive Care’ *in-cyprus* (23 March 2020), available at <https://in-cyprus.philenews.com/coronavirus-seven-patients-in-intensive-care/> (last accessed 10 August 2020).

toms and the patients in intensive care decreases. As a result, this gravely pushes up the mortality rate, as already observed in other European countries like Italy and Spain, due to overwhelming numbers of patients reaching the hospitals and the system being unable to support them.⁵⁰

Secondly, as a pandemic, COVID-19 has been *rightly* shaped as a security concern. Without the appropriate awareness over the protective measures citizens can take, societies would be left in an even more vulnerable position. Securitising a pandemic at a European level as a matter of regional health governance requires the development of a strong institutional health regime to boost efficiency in tracking, monitoring, and preventing further spread of pandemics through a ‘subtle’ form of political health authority.⁵¹ The problem, perhaps in this case, is that such a measure was inefficient and inadequate. When securitising a pandemic, additional politicisation policies must be drawn to justify the need to exercise additional powers and to take a precautionary stance against such a threat. The problem with the European Union (EU) is that it first generated a rather slow response, which affected all EU member-states, proving that none of them (including Cyprus) were fully prepared to tackle the pandemic from its outset.⁵² Therefore, not only is COVID-19 a hybrid threat on its own, but it has also contributed towards the entanglement of other threats that have targeted both the state and society. By studying the pattern according to which Cyprus has been more prone to hybrid threats between March and October 2020, it becomes easier to begin to disentangle different tools, mostly external in nature, that have exploited vulnerabilities in the state and society.

Furthermore, October 2020 brought forth three important events. Firstly, on 8th October, the Varosha Beach in the Famagusta ghost town reopened by the Turkish military for the first time, following 46 years of abandonment due to the con-

⁵⁰ See Ben Sills and Laura M. Lombrana, ‘Spanish Doctors are Forced to Choose Who to Let Die’ *Bloomberg* (26 March 2020), available at <https://www.bloomberg.com/news/articles/2020-03-25/spanish-doctors-forced-to-choose-who-to-let-die-from-coronavirus> (last accessed 17 August 2020). See also Lidia Sirna, Hernan M. Ratto Yuliya Talmazan, ‘Medical Workers in Spain and Italy “Overloaded” as More of Them Catch Coronavirus’ *NBC News* (30 March 2020), available at <https://www.nbcnews.com/news/world/medical-workers-spain-italy-overloaded-more-them-catch-coronavirus-n1170721> (last accessed 17 August 2020).

⁵¹ Louise Bengtsson, Mark Rhinard, ‘Securitisation Across Borders: The Case of “Health Security” Cooperation in the European Union’ (2019) 42(2) *West European Politics* 347.

⁵² Dionyssis Dimitrakopoulos, Georgette Lalis, ‘COVID-19: A Preliminary Assessment of the European Union’s Reaction’ (*LSE BBP*, 1 April 2020), available at <https://blogs.lse.ac.uk/politicsandpolicy/covid-19-a-preliminary-assessment-of-european-unions-reaction/> (last accessed 10 August 2020).

flict.⁵³ Soon after on 18th October, Ersin Tatar, former ‘Prime Minister’ of the unrecognised breakaway ‘TRNC’ was elected its leader.⁵⁴ This change in leadership, together with the firmer stance of Turkey overall has enabled Turkey to utilise this pandemic in order to bring about changes in the status quo vis-à-vis the frozen conflict in Cyprus. The importance of this is easier understood by looking at Turkish wider security and foreign policy needs in the region. Such policy is at best revisionist, as it seeks to challenge the existing geopolitical structures and to introduce a new system in place. This is achieved by pushing for a change in existing norms and material resources strategically, in ways that Turkish policy itself is concerned with ‘contesting, disrupting, altering, or destroying’ the status quo.⁵⁵ Turkey saw an opening in upsetting the then political situation and Varosha’s status, which worked for its own benefit, amidst a second pandemic wave that began affecting the Republic of Cyprus. The same goes for Turkish drilling explorations in the Eastern Mediterranean, which is an attempt to legitimise and solidify its presence and security interests in the wider geopolitical game and not necessarily to satisfy its own economic needs.⁵⁶

Thirdly, and perhaps most importantly, on 15th October, the former Speaker of the House of Representatives of the Republic, Mr Demetris Syllouris, resigned due to overwhelming evidence and allegations of corruption, following an investigation conducted by the Al Jazeera Investigative Unit, highlighting misuse of the Citizenship by Investment Programme.⁵⁷ The misuse granted illegally passports to indi-

⁵³ BBC News, ‘Varosha: Turkey Reopens Deserted Cyprus Resort but Tourists Will Wait’, available at <https://www.bbc.com/news/world-europe-54465684> (last accessed 24 June 2021)

⁵⁴ Al Jazeera, ‘Ersin Tatar Elected New Turkish Cypriot Leader’, available at <https://www.aljazeera.com/news/2020/10/18/incumbent-wins-turkish-cypriot-presidential-runoff-exit-polls> (last accessed 24 June 2021)

⁵⁵ For the full breakdown of the concept of Revisionism in International Relations, see Jonathan M. DiCicco and Victor M. Sanchez, ‘Revisionism in International Relations’, *Oxford Encyclopedia of International Studies* (2021), available at <https://doi.org/10.1093/acrefore/9780190846626.013.607> (last accessed 24 June 2021)

⁵⁶ See Zenonas Tziarras and Jalel Harchaoul, ‘What Erdogan Really Wants in the Eastern Mediterranean’ (2021), available at <https://foreignpolicy.com/2021/01/19/turkey-greece-what-erdogan-wants-eastern-mediterranean-sovereignty-natural-gas/> (last accessed 24 June 2021). See also Aydin Calik, ‘Turkey’s East Med Drilling Campaign: Politics By Other Means’ (2020) available at <https://www.mees.com/2020/10/9/geopolitical-risk/turkeys-east-med-drilling-campaign-politics-by-other-means/84520f80-0a31-11eb-9a09-b975a207aca4> (last accessed 24 June 2021)

⁵⁷ Al Jazeera Investigative Unit, ‘Cypriot Parliament Speaker Quits After Passport Scheme Scandal’ (2020), available at <https://www.aljazeera.com/news/2020/10/15/cyprus-house-speaker-resigns-following-al-jazeera-investigation> (last accessed 24 June 2021)

viduals with questionable, often criminal background, who could simply buy their way in to the European Union through the Republic of Cyprus. The leak and the result of the investigation led to serious political distrust, at a time when RoC was hit with the second wave of the pandemic. Indeed, the pandemic is not responsible for corruption nor for the investigation into the passport scheme. Nonetheless, the pandemic did offer a rather strained, insecure environment, through which emerging crises were able to inflict real damage to both state and society. Although it is without a question that corruption is ultimately negative, the time through which this scheme was uncovered and leaked to the press had serious security implications for RoC.

The above examples are certainly not direct outcomes of the pandemic. However, the pandemic itself has provided fertile ground through which a wide range of political spill-over effects and security issues have plagued both the state and society alike. What was originally mistaken for resilience at the face of the Republic of Cyprus’ existential threats was in fact blurred by COVID-19, generating additional anxiety, social and political distrust, as well as uncertainty within the security realm. Table 1 shows a visualisation of how Cyprus has faced different hybrid threats during the COVID-19 pandemic. This table has been created based on different factors, further analysed below. Firstly, the type of threat or the tool employed shows the range of hybrid threats Cyprus has experienced from March to October 2020. The section under ‘areas affected’ signifies whether this is predominantly a state or societal concern. As it becomes more evident, it seems that security concerns have been increasingly penetrating into the social fabric and thus the generated insecurities have been affecting society more and more. The table also includes a description for each event. Finally, the ‘outcome’ portrays the impact these threats have had. This preliminary part is useful for strategists and policymakers when attempting to disentangle such threats and to address appropriate countermeasures.

Table 1: Hybrid Threats in Cyprus during the COVID-19 Pandemic
(Data for March – October 2020)

Type of threat/tool	Areas Affected	Event(s) Description	Outcome
Misleading Information, Social Media	State, Society (critical infrastructure; response to health issues)	Global disinformation campaigns on the origins of the virus; Anti-maskers, conspiracy theories	Distrust in institutions, scientific data, and experts; conspiracy theories – public health danger increases

Hostile Action, Fear, Anxiety (Turkey)	Society (major anticipation, fear); State (pre-emptive and defensive stance)	Turkey violating Cypriot Exclusive Economic Zone (EEZ), undermining the sovereignty of the RoC. No real hot episode from the Republic of Turkey. However, the opening of Varosha was unanticipated and caught the RoC off guard	Twofold for society: normalisation of conflict (routinised) and constant anxiety and anticipation. For the State: foreign policy shift towards maintaining a pre-emptive and defensive stance
Diplomacy	State and Society	Diplomatic strategies to normalise relations, and push specific agendas online and on TV (e.g. digital diplomacy & social media)	To change the narrative and sympathise with the user
Cyber Tools (Espionage, Attacks)	State and Society	New threats; business vulnerability (financial); State vulnerability due to past attacks ⁵⁸	For the first time, the RoC's cyber entity, launches a step-by-step guide for businesses to ensure additional cybersecurity protection
Information Leaks	State and Society	The debate on the 'Cyprus Papers'; ⁵⁹ Politics of identity	Loss of trust in institutions; state undermined; reactionary society
Economic/Financial	State (aggregate economy) and Society (individuals, employees, businesses)	Lack of secure jobs; unemployment: rising of annual registered unemployment in August at 69% in the RoC	Rising unemployment brings instability, speculative fears of economic downgrade, social anxiety
Party Politics	State and Society	Politics of identity; debates of narrative within the political establishment, to and from the sitting government and the opposition	Status quo; exploitation of other threats to further political agendas
Migration	State and Society (also framed as a societal threat)	Borders shut due to COVID-19; refugee camps conditions worsening	Fear, suspicion, anxiety targeted against migrants, refugees, asylum seekers; the state gets carte blanche to deal with migration freely (aided by society)

⁵⁸ Past attacks involve the hacking of diplomatic cables by Chinese hackers by obtaining access via diplomatic credentials (passports) to official EU policy on foreign affairs, security, enlargement, and migration. Another attack involved the infiltration of defence ministries (including the Cypriot one) by 'Sea Turtle', a hacker group, with a focus on Europe and the Middle East. This creates insecurities for both Cyprus and the EU. See David E. Sanger, Steven Erlanger, 'Hacked European Cables Reveal a World of Anxiety about Trump, Russia, and Iran' *The New York Times* (18 December 2018), available at <https://www.nytimes.com/2018/12/18/us/politics/european-diplomats-cables-hacked.html> (last accessed 11 August 2020). See also Andy Greenberg, 'Cyberspies Hijacked the Internet Domains of Entire Countries' *Wired* (17 April 2019), available at <https://www.wired.com/story/sea-turtle-dns-hijacking/>.

⁵⁹ This involves a set of leaked papers, targeting the RoC and undermining its legitimacy. Society is equally affected in the process, losing faith towards the state. A subsequent documentary release also led to the resignation of key politicians. Refer to the Investigative Unit of Al Jazeera, 'The Cyprus Papers' *Al Jazeera* (23 August 2020), available at <https://www.aljazeera.com/investigations/cypruspapers/>.

To begin with, there has been a heavy campaign of misleading information regarding the pandemic. *Misinformation* and *disinformation* tactics have managed to spread a lot of uncertainty during and after lockdown. Misleading information in general damages all political life. Whereas misinformation involves people holding incorrect information as factual evidence that is being spread without them being aware that it is in fact, incorrect, disinformation is the *deliberate* spread of such information with the ultimate objective of causing harm, jeopardising an intended target or recipient, and, in other cases, causing people to lose faith in the political establishment.⁶⁰

Misinformation can begin from targeted disinformation strategies as hybrid threats, exhibiting various political challenges and insecurity. The growing distrust towards public institutions from society is a serious problem that feeds into this. This exact point is shown in recent conspiracy theories, fuelled by distrust and state-directed anger, that 5G networks, for example, are supposedly a cause of COVID-19.⁶¹ Characteristically, the use of social media enables users to quickly spread such information with limited or untimely fact checking. In other cases, where fact-checking is readily available, as it has already become a crucial tool in providing more reliable information by independent fact-checkers on social media platforms, it could also backfire and reinforce conspiracy theorists' ideas that these platforms work against their best interests.⁶² This became evident in April, when individuals in Cyprus vandalised and burned equipment that they considered to be 5G network antennas. Evidently, those were not even 5G equipment to begin with, though this vulnerability posed through misleading information demonstrates the extremes people are willing to go to and the damage this can have on society and on critical communications infrastructure.⁶³ Apart from these being very pervasive examples during COVID-19, their security implications are what really matter the most. The lack of trust in experts and state stakeholders in mitigating the risks of the pandemic, as well as the lack of faith in overall political institutions endanger,

⁶⁰ W. Lance Bennet and Steven Livingston, 'The Disinformation Order: Disruptive Communication and the Decline of Democratic Institutions' (2018) 33(2) *European Journal of Communication* 124.

⁶¹ Daniel Jolley and Jenny L. Paterson, 'Pylons Ablaze: Examining the Role of 5G COVID-19 Conspiracy Beliefs and Support for Violence' (2020) 59(3) *British Journal of Social Psychology* 628.

⁶² Alex Bruns, Stephen Harrington, Edward Hurcombe, "'Corona? 5G? Or Both?': The Dynamics of COVID-19/5G Conspiracy Theories on Facebook' (2020) 177(1) *Media International Australia*.

⁶³ *Ibid.* See also AP, 'Opponents of 5G Networks Set Fire to Cyprus' Mobile Antennas' *Associated Press* (2020), available at <https://apnews.com/4e7cdfbfeca9ed47d3d283e2cba4ba43> (last accessed 10 August 2020).

once again, endanger both state and society. Destruction to property, not upholding the necessary health protocol during the pandemic, and absenteeism during elections was projected to give rise to extreme right-wingers, as seen in the 2021 elections, where the National Popular Front (ELAM) was able to increase both its seats, as well as its percentage and overall political power.⁶⁴ Not only that, but the distrust generated left health experts as part of the advisory epistemological committee of the state exposed, with lawsuits looming over them.⁶⁵ This is particularly problematic, as the state itself fails to protect its own advisors and has not addressed the issue adequately at the time of writing.

Moreover, the prospect of Turkish hostile action is another variable to be taken into consideration. For one thing, Turkey has not exercised significant physical force, nor has it employed additional troops against the RoC since the invasion and occupation of the northern part in 1974. Nevertheless, the prospect of fear, as well as the anxiety and anticipation that come with such hostile action taking place pose a large vulnerability in and of themselves. Fear is perhaps one of the most important factors that need to be seriously assessed by policymakers. In the case of Cyprus, fear been a strong foreign policy drive for the State, whereas anxiety largely spreads within a society that wishes to avoid or pre-emptively guard itself against the outbreak of war.

In disentangling this specific issue, we discover that the threat itself gradually becomes *normalised*. This means that a new established identity is created. With the ongoing energy, refugee, and geopolitical crises in the Eastern Mediterranean, such challenges become more frequent. The provocations of the Turkish presence in the EEZ, for instance, trace back to the first explorations of the Turkish vessel *Barbaros*⁶⁶, yet nowadays, these incidents are essentially part of the day-to-day rou-

⁶⁴ Helena Smith, 'Cyprus Election: Far-Right Party Linked to Greek Neo-Nazis Doubles Vote Share' (2021) *The Guardian*, available at <https://www.theguardian.com/world/2021/may/30/far-right-cyprus-election-parliament> (last accessed 24 June 2021).

⁶⁵ See Nick Theodoulou, 'Coronavirus: Advisory Team Named in Lawsuits Will Have Legal Fees Covered by the State' (2021) *Cyprus Mail*, available at <https://cyprus-mail.com/2021/06/10/coronavirus-advisory-team-named-in-lawsuits-will-have-legal-fees-covered-by-the-state/> (accessed 24 June 2021).

⁶⁶ Michelle Kambas, 'Cyprus Says Turkish Vessel Encroaching on its Offshore Gas Areas' *Reuters* (20 October 2014), available at <https://www.reuters.com/article/cyprus-turkey-gas/cyprus-says-turkish-vessel-encroaching-on-its-offshore-gas-areas-idUSL6NOSF32C20141020> (last accessed 18 August 2020). See also Petros Petrikkos, 'Energy and Security in the Eastern Mediterranean' *Global Risk Insights* (26 March 2019), available at <https://globalriskinsights.com/2019/03/energy-and-security-in-the-eastern-mediterranean/> (last accessed 18 August 2020).

tine in the region.⁶⁷ It is then normal for the state to overemphasise the Turkish threat in the Eastern Mediterranean, because a sense of consistency and continuity has been established, and, therefore, one actor (in this case Cyprus) can anticipate another's (Turkey's) actions.⁶⁸ The real threat, then, is when this pattern breaks and Turkish movements in the region become unpredictable. For one thing, we are not simply dealing with the idea that Turkey, as opposed to Cyprus, has larger armies and better military gear, but also with the actual anticipation of a potential, unpredictable attack being a threat on its own.

Other suggested indicators, such as diplomacy and party politics, present themselves to control the rhetoric. These are often linked to misinformation and disinformation techniques, whilst in the case of diplomacy alone, the examples of the targeted campaigns by China showcase a good example of how states can politicise and weaponise a pandemic for diplomatic exposure. Not only that, but as these issues take place in the cyber realm, such an outcome becomes increasingly hard to predict. In defending businesses and states against cyber threats, the national Computer Security Incident Response Team (CSIRT) of Cyprus issued a set of helpful guidelines for additional protection online, in an effort to mitigate risks.⁶⁹ As mentioned in the table, Cyprus has had a history of vulnerabilities in the cyber realm, as it has been prone to attacks by cyber criminals.⁷⁰

What is more, a rather serious threat is posed indirectly by the 'side-effect' of the lockdown and the strain this has had on businesses and the wider public. The state had originally intervened in the economy with aid packages until August. The future economic and financial implications are both a state and societal concern. By the end of August, a sharp increase of 69.2% in registered unemployment was recorded.⁷¹ Simultaneously, Cyprus as an island normally depends on tourism

⁶⁷ See C. Adamides (no 10) 75.

⁶⁸ See J. Mitzen (no 29) 342.

⁶⁹ See In-Cyprus, 'Coronavirus: Cyprus' Cyber-Security Entity Shares Guidelines for Working Remotely (Infographics)' *in-cyprus* (20 March 2020), available at <https://in-cyprus.philenews.com/coronavirus-cyprus-cyber-security-entity-shares-guidelines-for-working-remotely-infographics/> (20 August 2020).

⁷⁰ See Table 1 and the relevant description in the references. See also Petros Petrikkos, 'Building Infrastructures: Reviewing Cypriot Cybersecurity Practices' *Global Risk Insights* (8 April 2019), available at <https://globalriskinsights.com/2019/04/building-infrastructures-reviewing-cypriot-cybersecurity-practices/> (last accessed 18 August 2020).

⁷¹ fm, 'Registered Unemployment Shoots up 69%' *Financial Mirror* (3 September 2020), available at <https://www.financialmirror.com/2020/09/03/registered-unemployed-shoots-up-69/> (last accessed 3 September 2020).

to a large extent during the summer period. By March, tourism had dropped by 73.5% as compared to the year before, having an unprecedented impact on the hotel-and-services industry.. Compared with 2019, which was a record year welcoming 3.9 million tourists, 2020 has been particularly awful.⁷² This is problematic, not just for the tourism industry, but for the economy as a whole, given how tourism usually helps generate a lot of revenue that circulates around.

Last but not least, migration has often been addressed as a security concern. During the lockdown period, State authorities prevented a boat with 175 Syrian refugees to make it to land under the jurisdiction of the RoC. On 15 March, Cyprus shut its borders to non-Cypriots, non-European workers, and to those who had no special permits. The boat was instead sent off to the northern part, to the breakaway regime.⁷³ The ongoing refugee crisis in the area has often seen migrants, asylum seekers and refugees trying to stop by Cyprus while fleeing conflict or migrating for other reasons. The debate has often focused both on regulating migration as well as tackling it head on.⁷⁴ Migration has been a persisting issue of debate, both due to ontological fears of the ‘Other’, or the ‘alien’, as well as due to the lack of an appropriate information framework that best helps citizens and society as a whole to fully understand migration and the different kinds of migrants that a country can have, let alone the overall positive implications on the aggregate economy.

Hybrid Threats Under COVID-19: A Pandemic (Dis)Entanglement

There is no linear path to understanding modern security challenges. Even in the case of small states and societies with a history of conflict and struggle against larger existential threats, the more we dig in the bigger the insecurities we seem to discover. By touching upon a relatively new concept in recent scholarship, the

⁷² The National Herald, ‘COVID-19 Choking Cypriot Economy, March Tourism Falls 73.5%’ *The National Herald* (22 May 2020), available at https://www.thenationalherald.com/cyprus_economy/arthro/covid_19_choking_cypriot_economy_march_tourism_falls_73_5-335713/ (last accessed 18 August 2020). See also Natalie Leonidou, ‘COVID-19: Cyprus Tourism Will Carry Scars of Pandemic into 2021’ *Financial Mirror* (18 July 2020), available at <https://www.financialmirror.com/2020/07/18/covid19-cyprus-tourism-will-carry-scars-of-pandemic-into-2021/> (last accessed 18 August 2020).

⁷³ Andrew Connelly, ‘Cyprus Pushes Syrian Refugees Back at Sea due to Coronavirus’ *Al Jazeera* (30 March 2020), available at <https://www.aljazeera.com/news/2020/03/cyprus-pushes-syrian-refugees-sea-due-coronavirus-200330091614066.html> (last accessed 11 August 2020).

⁷⁴ An interesting account of the various migration debates in Europe through a critical lens is Nicos Trimikiniotis, *Migration and the Refugee Dissensus in Europe: Borders, Security and Austerity* (London and New York, NY: Routledge, 2020). See also J. Huysmans (no 33) for the deliberate spread of fear and insecurity over migration debates.

framework of security entanglement can help us understand that security is a collection of different processes and concepts. When, how, and why we disentangle the already-entangled security processes impacts the State and society differently. At the same time, the wider puzzle of security is re-examined through a more critical, albeit helpful, lens that focuses on positive paradigms that, upon careful examination, we can begin using to predict patterns in future research and enhance the decision-making process, be it for foreign, defence, economic, or health policy. COVID-19, in this sense, has both helped and intimidated the state and society with the opportunities and problems it has brought along.

This paper is by no means without its limitations. The contribution offered here is helpful for those who wish to combine issues like ontological security, securitisation, and critical approaches in theorising appropriate security frameworks for pandemic scenarios and hybrid threats in conflict cases like Cyprus. Yet, security entanglement is relatively new as a concept. It still requires additional study to best employ these security angles together. The key is the interdisciplinary nature of Security Studies that must be emphasised.

The case of Cyprus has been interesting for several reasons. First, as a small state, it has experienced security challenges differently compared to bigger powers. As a result, there is a strong need to adapt to changing external conditions that may even impact frozen conflicts. Moreover, Cyprus has been experiencing frozen conflict which often absorbs most of the security agenda. The danger here, as already mentioned, is over-focusing on the conflict whilst disregarding other threats. In the realm of hybrid threats, focusing on only one type of security issue is a dangerous game. Just like in cyberspace, no country can ever be fully prepared to combat new and fresh security issues. This is why adaptability matters so much. By understanding the appropriateness of entanglement in conflict and beyond, cases like RoC and their respective societies can benefit from adopting appropriate policy responses to security crises.

References

- Adamides C., 'The Challenges of Formulating National Security Strategies (NSS) in the Presence of Overarching Existential Threats' (2018) 30(1) *The Cyprus Review* 71-94.
- Al Jazeera, 'Ersin Tatar Elected New Turkish Cypriot Leader', available at <https://www.aljazeera.com/news/2020/10/18/incumbent-wins-turkish-cypriot-presidential-runoff-exit-polls> (last accessed 24 June 2021)

- Aradau C., 'Security That Matters: Critical Infrastructure and Objects of Protection' (2010) 41(5) *Security Dialogue* 491-514.
- AP, 'Opponents of 5G Networks Set Fire to Cyprus' Mobile Antennas' *Associated Press*, (2020), available at <https://apnews.com/4e7cdfbfeca9ed47d3d283e2cba-4ba43> (last accessed 10 August 2020).
- BBC News, 'Varosha: Turkey Reopens Deserted Cyprus Resort but Tourists Will Wait', available at <https://www.bbc.com/news/world-europe-54465684> (last accessed 24 June 2021)
- Bengtsson L., M. Rhinard, 'Securitisation Across Borders: The Case of "Health Security" Cooperation in the European Union' 42(2) *West European Politics* 346-368.
- Bennet W. L., S. Livingston, 'The Disinformation Order: Disruptive Communication and the Decline of Democratic Institutions' (2018) 33(2) *European Journal of Communication* 122-139.
- Bigo D., 'Internal and External Aspects of Security' (2006) 15(4) *European Security* 385-404.
- Bruns A. S. Harrington, E. Hurcombe, "Corona? 5G? Or Both? The Dynamics of COVID-19/5G Conspiracy Theories on Facebook" (2020) 177(1) *Media International Australia*.
- Buzan B., *People, States and Fear: The National Security Problem in International Relations* (Brighton: Wheatsheaf Books Ltd, 1983).
- Buzan B., O. Waever, J. de Wilde *Security: A New Framework for Analysis* (London: Lynne Rienner Publishers, 1997).
- Buzan B., O. Waever, *Regions and Power: The Structure of International Security* (Cambridge: Cambridge University Press, 2003).
- Brantly A. F., 'Entanglement in Cyberspace: Minding the Deterrence Gap' (2020) 16(3) *Democracy and Security* 210-233.
- Calik, A. 'Turkey's East Med Drilling Campaign: Politics By Other Means' (2020) available at <https://www.mees.com/2020/10/9/geopolitical-risk/turkeys-east-med-drilling-campaign-politics-by-other-means/84520f80-0a31-11eb-9a09-b975a207aca4> (last accessed 24 June 2021)
- Cederberg A., P. Eronen, 'How can Societies be Defended against Hybrid Threats' (September 2015) 9 Geneva Centre for Security Policy (GCSP) 1-11.

- Cleridou C., 'COVID-19 and Labour Law: Cyprus' (2020) Special Issue ('COVID-19 and Labour Law: A Global Review') 13(1) *Italian Labour Law e-Journal* 1-7.
- Connelly A., 'Cyprus Pushes Syrian Refugees Back at Sea due to Coronavirus' Al Jazeera (30 March 2020), available at <https://www.aljazeera.com/news/2020/03/cyprus-pushes-syrian-refugees-sea-due-coronavirus-200330091614066.html> (last accessed 11 August 2020).
- DiCicco, D.M. and Sanchez, V.M. 'Revisionism in International Relations', *Oxford Encyclopedia of International Studies* (2021), available at <https://doi.org/10.1093/acrefore/9780190846626.013.607> (last accessed 24 June 2021)
- Dimitrakopoulos D., G. Lalis, 'COVID-19: A Preliminary Assessment of the European Union's Reaction' (*LSE BBP*, 1 April 2020), available at <https://blogs.lse.ac.uk/politicsandpolicy/covid-19-a-preliminary-assessment-of-european-unions-reaction/> (last accessed 10 August 2020).
- Dodds K. et al., 'The COVID-19 Pandemic: Territorial, Political and Governance Dimensions of the Crisis' (2020) 8(3) *Territory, Politics, Governance* 289-298.
- Elbe, S. and Buckland-Merrett, G., 'Entangled Security: Science, Co-Production, and Intra-Active Insecurity' (2019), 4(2) *European Journal of International Security* 123-141.
- Emmott R., 'Russia Deploying Coronavirus Disinformation to Sow Panic in the West, EU Document Says' *Reuters* (18 March 2020), available at <https://www.reuters.com/article/us-health-coronavirus-disinformation/russia-deploying-coronavirus-disinformation-to-sow-panic-in-west-eu-document-says-idUSKBN21518F> (last accessed 11 August 2020).
- Fearon J. D., A. Wendt, 'Rationalism v. Constructivism: A Skeptical View', in W. Carlsnaes, T. Risse, B. A. Simmons (eds.), *Handbook of International Relations* (London: SAGE Publications Ltd, 2002) 52-72.
- fm, 'Registered Unemployment Shoots up 69%' *Financial Mirror* (3 September 2020), available at <https://www.financialmirror.com/2020/09/03/registered-unemployed-shoots-up-69/> (last accessed 3 September 2020).
- Freud S., 'The Uncanny' in James Strachey (tr.), *The Standard Edition of the Complete Psychological Works of Sigmund Freud, Volume XVII (1917-1919): An Infantile Neurosis and Other Works* (London: The Hogarth Press and the Institute of Psychoanalysis, 1919) 217-256.

- Global Health Security Index (GHS), 'Inaugural Global Health Security Index Finds No Country Is Prepared for Epidemics or Pandemics' (24 October 2019), available at <https://www.ghsindex.org/news/inaugural-global-health-security-index-finds-no-country-is-prepared-for-epidemics-or-pandemics/> (last accessed 10 August 2020).
- Greenberg A., 'Cyberspies Hijacked the Internet Domains of Entire Countries' *Wired* (17 April 2019), available at <https://www.wired.com/story/sea-turtle-dns-hijacking/> (last accessed 11 August 2020).
- Greer S. L. et al., 'The Comparative Politics of COVID-19: The Need to Understand Government Responses' (2020) 15(9) *Global Public Health* 1413-1416.
- Hamilton S., 'Securing Ourselves from Ourselves? The Paradox of "Entanglement" in the Anthropocene' (2017) 68(5) *Crime, Law and Social Change* 579-595.
- Huysmans J., 'Security! What Do You Mean? From Concept to Thick Signifier' (1998) 4(2) *European Journal of International Relations* 226-255.
- Huysmans J., *The Politics of Insecurity: Fear, Migration and Asylum in the EU* (London and New York, NY: Routledge, 2006).
- In-Cyprus, 'Coronavirus: Seven Patients in Intensive Care' *in-cyprus* (23 March 2020), available at <https://in-cyprus.philenews.com/coronavirus-seven-patients-in-intensive-care/> (last accessed 10 August 2020).
- In-Cyprus, 'Coronavirus: Cyprus' Cyber-Security Entity Shares Guidelines for Working Remotely (Infographics)' *in-cyprus* (20 March 2020), available at <https://in-cyprus.philenews.com/coronavirus-cyprus-cyber-security-entity-shares-guidelines-for-working-remotely-infographics/> (last accessed 20 August 2020).
- Jolley D., J. L. Paterson, 'Pylons Ablaze: Examining the Role of 5G COVID-19 Conspiracy Beliefs and Support for Violence' (2020) 59(3) *British Journal of Social Psychology* 628-640.
- Kambas M., 'Cyprus Says Turkish Vessel Encroaching on its Offshore Gas Areas' *Reuters* (20 October 2014), available at <https://www.reuters.com/article/cyprus-turkey-gas/cyprus-says-turkish-vessel-encroaching-on-its-offshore-gas-areas-idUSL6N0SF32C20141020> (last accessed 18 August 2020).
- Kambas M., 'Cyprus to Shut Checkpoints for the First Time Since 2003' *Reuters* (28 February 2020), available at <https://www.reuters.com/article/us-china-health-cyprus-checkpoints/cyprus-to-shut-checkpoints-for-first-time-since-2003-over-coronavirus-idUSKCN20M1T6> (last accessed 10 August 2020).

- Kentas G. I., 'A Realist Evaluation of Cyprus' Survival Dilemma as Result of the Annan Plan' (2003) 15(2) *The Cyprus Review* 13-63.
- Khoo E. J., J. D. Lantos, 'Lessons Learned from the COVID-19 Pandemic' (109)7 *Acta Paediatrica* 1323-1325.
- Kinnvall C., J. Mitzen, 'Anxiety, Fear, and Ontological Security in World Politics: Thinking with and Beyond Giddens' (2020) 12(2) *International Theory* 240-256.
- Leonidou N., 'COVID-19: Cyprus Tourism Will Carry Scars of Pandemic into 2021' *Financial Mirror* (18 July 2020), available at <https://www.financialmirror.com/2020/07/18/covid19-cyprus-tourism-will-carry-scars-of-pandemic-into-2021/> (last accessed 18 August 2020).
- Mälksoo M., 'Countering Hybrid Warfare as Ontological Security Management: The Emerging Practices of the EU and NATO (2018) (27)3 *European Security* 374-392.
- Mitzen J., 'Ontological Security in World Politics: State Identity and the Security Dilemma' (2006) 12(3) *European Journal of International Relations* 341-370.
- The National Herald, 'COVID-19 Choking Cypriot Economy , March Tourism Falls 73.5%' *The National Herald* (22 May 2020), available at https://www.thenationalherald.com/cyprus_economy/arthro/covid_19_choking_cypriot_economy_march_tourism_falls_73_5-335713/ (last accessed 18 August 2020).
- Neumann I. B., 'International Relations as a Social Science' (2014) 43(1) *Millennium: Journal of International Studies* 330-350.
- Olesker, R. 'Chaos is a Ladder: A Study of Identity, Norms, and Power Transition in the Game of Thrones Universe' (2020), 22(1) *British Journal of Politics and International Relations*, 47-64.
- Petrikkos P., 'Energy and Security in the Eastern Mediterranean' *Global Risk Insights* (26 March 2019), available at <https://globalriskinsights.com/2019/03/energy-and-security-in-the-eastern-mediterranean/> (last accessed 18 August 2020).
- Petrikkos P., 'Building Infrastructures: Reviewing Cypriot Cybersecurity Practices' *Global Risk Insights* (8 April 2019), available at <https://globalriskinsights.com/2019/04/building-infrastructures-reviewing-cypriot-cybersecurity-practices/> (last accessed 18 August 2020).
- Press and Information Office, 'COVID-19: Decrees' (2020), available at <https://www.pio.gov.cy/coronavirus/eng/categories/decrees> (last accessed 23 June 2021).

- Press and Information Office, 'Press Releases: The President of the Republic Addresses the Cyprus People on the Issue of Coronavirus' (13 March 2020), available at <https://www.pio.gov.cy/en/press-releases-article.html?id=12649#flat> (last accessed 10 August 2020).
- Sanger D. E., S. Erlanger, 'Hacked European Cables Reveal a World of Anxiety about Trump, Russia, and Iran' *The New York Times* (18 December 2018), available at <https://www.nytimes.com/2018/12/18/us/politics/european-diplomats-cables-hacked.html> (last accessed 11 August 2020).
- Scott M., 'Chinese Diplomacy Ramps up Social Media Offensive in COVID-19 Info War' *Politico* (29 April 2020), available at <https://www.politico.eu/article/china-disinformation-covid19-coronavirus/> (last accessed 11 August 2020).
- Schweller, R.L. 'Unanswered Threats: A Neoclassical Realist Theory of Underbalancing' (2004), 29(2) *International Security* 159-201.
- Sills B., L. M. Lombrana, 'Spanish Doctors are Forced to Choose Who to Let Die' *Bloomberg* (26 March 2020), available at <https://www.bloomberg.com/news/articles/2020-03-25/spanish-doctors-forced-to-choose-who-to-let-die-from-coronavirus> (last accessed 17 August 2020).
- Sirna L., H. M. Ratto, Y. Talmazan, 'Medical Workers in Spain and Italy "Overloaded" as More of them Catch Coronavirus' *NBC News* (30 March 2020), available at <https://www.nbcnews.com/news/world/medical-workers-spain-italy-overloaded-more-them-catch-coronavirus-n1170721> (last accessed 17 August 2020).
- Smith, H. 'Cyprus Election: Far-Right Party Linked to Greek Neo-Nazis Doubles Vote Share' (2021) *The Guardian*, available at <https://www.theguardian.com/world/2021/may/30/far-right-cyprus-election-parliament> (last accessed 24 June 2021)
- Staff Reporter, 'Coronavirus: President to Announce New Measures at 8:30pm' *Cyprus Mail* (29 April 2020), available at <https://cyprus-mail.com/2020/04/29/coronavirus-president-to-announce-new-measures-at-8-30pm/> (last accessed 10 August 2020).
- Steele B.J., *Ontological Security in International Relations: Self Identity and the IR State* (London: Routledge, 2008).
- Theodoulou, N. 'Coronavirus: Advisory Team Named in Lawsuits Will Have Legal Fees Covered by the State' (2021) *Cyprus Mail*, available at <https://cyprus-mail.com>.

com/2021/06/10/coronavirus-advisory-team-named-in-lawsuits-will-have-legal-fees-covered-by-the-state/ (accessed 24 June 2021).

Trimikliniotis N., *Migration and the Refugee Dissensus in Europe: Borders, Security and Austerity* (London and New York, NY: Routledge, 2020).

Tziarras Z. 'Israel-Cyprus-Greece: A "Comfortable" Quasi-Alliance' (2016) 21(3) *Mediterranean Politics* 407-427.

Tziarras, Z. and Harchaoul, J., 'What Erdogan Really Wants in the Eastern Mediterranean' (2021), available at <https://foreignpolicy.com/2021/01/19/turkey-greece-what-erdogan-wants-eastern-mediterranean-sovereignty-natural-gas/> (last accessed 24 June 2021)

Waltz K. N., 'The Origins of War in Neorealist Theory' (1988) 18(4) *The Journal of Interdisciplinary History* 615-628.

World Health Organisation (WHO) 'WHO Director-General's Opening Remarks at the Media Briefing on COVID-19' (11 March 2020), available at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last accessed 11 August 2020).

A Paradox or a Long-Standing Reality? A Pandemic Within A Pandemic

ANDREA MANOLI¹

Abstract

COVID-19 has led to an abrupt change in the time spent self-isolated in our domestic residence. The introduction of self-isolation or lockdown measures have increased domestic violence significantly. The Republic of Cyprus has implemented stay-at-home measures which saw a rise of approximately 30% of domestic violence incidences. It is thus of utmost importance to acknowledge the long-standing pandemic which was once again unearthed due to the COVID-19 pandemic. Bearing in mind the above, the current paper will identify and analyse the international, regional, and national legal framework which aims at preventing, protecting, and combating domestic violence. The terrifying increase of domestic violence during the pandemic has showed an increased demand in empowering women, mothers and children by spreading awareness with regard to the tool-box available for the prevention, protection, and combat against domestic violence.

Keywords: domestic violence, human rights, covid-19, Istanbul Convention, violence against women

Introduction

Measures announced over the Island of Cyprus in an effort to tackle the pandemic have altered the everyday life of people dramatically. Unintended negative consequences arose bringing new challenges or unearthing long-standing ones. The multifaceted impact of the much-needed and well-intended measures in Cyprus increased physical and psychological risks, while businesses and the economy in general were hit hard. Throughout self-isolation, lockdowns and curfews, women, children, and their mothers remained extremely vulnerable, revealing once more the legal as well as the socio-legal deficiencies of the law, at the expense of the victims of domestic violence. During the COVID-19 pandemic, the President of the Republic of Cyprus (RoC) addressed its people claiming that we are up against an

¹ PhD Candidate, Associate Lecturer, UCLan.

‘invisible enemy’.² Having in mind all the above, it seems clear that coronavirus was not the only ‘invisible enemy’. Society has been facing a long-standing, invisible enemy which is deep-rooted and fed by the unequal power dynamic between the genders. The enemy of domestic violence is defined as ‘all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim’.³ Bearing in mind the different *de facto* and *de jure* administrative jurisdictions in the island of Cyprus, it is worth mentioning that the United Nation Force in Cyprus (UNFICYP) reported an increase of domestic violence incidents by 58% from the middle of March until 22 April 2020.⁴ More specifically and after independence the Republic of Cyprus had to coexist and cooperate with the Sovereign Base Areas (SBAs) following the Cyprus Act 1960. After the inter and intra-state conflict, the Constitutional collapse in 1963 and finally the Turkish invasion and occupation the *de facto* jurisdiction of the UN Buffer Zone and the so called ‘TRNC’ which is administered by Turkey was established.

Non-governmental organisations (NGOs) have also reported an increase in domestic violence within the (RoC) in May 2020. More specifically, the Association for the Prevention and Handling of Violence in the Family (SPAVO) reported that there is a rise of 30% of domestic violence cases.⁵ In the area which has been *de facto* administered by the Turkish Cypriot community since the Turkish invasion and occupation of 1974, the situation seemed to be even worse. More specifically, the

² Γραφείο Τύπου και Πληροφοριών, ‘Διάγγελμα του Προέδρου της Δημοκρατίας κ. Νίκου Αναστασιάδη, 23/03/2020’ (23/03/2020), available at https://www.pio.gov.cy/coronavirus/press/23032020_12.pdf (last accessed 5 September 2020); See translation here: Republic of Cyprus, “The President of the Republic, Mr Nicos Anastasiades, addresses the Cyprus people on Coronavirus, 23/03/2020” available at <https://www.presidency.gov.cy/cypresidency/cypresidency.nsf/All/01801183804A4B28C22585D-F0035884F?OpenDocument> (last accessed on 22 July 2021).

³ Council of Europe, Amnesty International, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, Article 3(b), available at <https://www.refworld.org/docid/548165c94.html> (last accessed 5 September 2020).

⁴ UNFICYP, ‘Domestic Violence and COVID-19’ (Technical Committee on Gender Equality, 6 May 2020), available at https://unficyp.unmissions.org/domestic-violence-and-covid-19?fbclid=IwAR1T-TJpXGwf115a3jwKrfCyiQ7VVUC_qIS996PYnDdmsr-TBtK0ZIkKhk_Wc (last accessed 5 September 2020).

⁵ In Cyprus, ‘Sharp Rise in Domestic Violence Amid Covid-19 Outbreak’ *in-cyprus* (2 April 2020), available at <https://in-cyprus.philenews.com/sharp-rise-in-domestic-violence-amid-covid-19-outbreak/> (last accessed 5 September 2020).

calls to helplines reportedly increased up to 10 times during lockdown.⁶ Nevertheless, when it comes to the recording of domestic abuse victims are often reluctant to file a complaint, despite the evident problem. This has been attributed to many reasons, which include, but are not limited to, fear, patriarchy, and other social peculiarities and inter-gender stereotypes. Of course, the scale of domestic violence incidents would have been much greater if this dark figure were absent. Yet, this is not the case.

While domestic violence affects everyone, statistics show that it disproportionately affects women and children on a larger scale. For that reason, international, regional, and national legal frameworks seek to prevent, protect against, and combat the phenomenon of domestic violence while prioritising victims' rights. Violence against women is now tackled through various international frameworks. One of the most important of those frameworks is the Convention of the Council of Europe on preventing and combating violence against women and domestic violence, also known as the 'Istanbul Convention'. As a member of the European Union (EU) and the Council of Europe on a national level, the (RoC) is a signatory party to the Istanbul Convention and has established the framework which protects individuals from violence. The Republic have ratified the Istanbul Convention through Law 14(III)/2017 in 28 July 2017.⁷ Despite modern perceptions and the theoretical disengagement of the institution of family from the patriarchal norms and the androcentric power, in the year 2020 females continue to be enslaved and ill-treated within the family setting. Thus, it is of particular importance to raise awareness by any means through informing and reminding victims of domestic violence about their rights. While their rights are covered by international, regional, and national law, 67% of victims did not report the most serious incident of partner violence to the police or any other organisation. By considering all the above, the current paper will examine the international, regional, and national legal framework of tackling domestic violence. Protecting the basic human rights of individuals is at the core of any European, democratic State which respects the rule of law.

More specifically, the first part of the paper will analyse The Violence in the Family (Prevention and Protection of Victims) Law of 2000 (119(I)/2000), before moving on to the international framework. The paper will then focus on the Istanbul

⁶ UNFICYP (no 3).

⁷ Ο περί της Σύμβασης του Συμβουλίου της Ευρώπης για την Πρόληψη και την Καταπολέμηση της Βίας κατά των Γυναικών και της Ενδοοικογενειακής Βίας (Κυρωτικός) Νόμος του 2017 (Ν. 14(III)/2017) http://www.cylaw.org/nomoi/arith/2017_3_014.pdf last accessed on 22 July 2021.

Convention and briefly identify the connection of the vicious phenomenon of domestic violence with the European Court of Human Rights (ECtHR) and thus with the European Convention on Human Rights (ECHR). Since the RoC –which is the focus of the current paper– is a member State of the EU, the Directive 2012/29/EU aiming at reinforcing victim’s rights throughout all stages of the criminal process will be analysed. As the current paper constitutes a reminder to victims of domestic violence in Cyprus that they do have a voice, the author will not engage on an overly legalistic analysis but will rather provide a simplified presentation and identification of the legal frameworks that are available to women, mothers, and children in the island of Cyprus.

The Cypriot Legal Framework: The Violence in the Family (Prevention and Protection of Victims) Law of 2000 (119(I)/2000)

As with many legal frameworks in the RoC, the legal framework concerning domestic violence has not been consolidated in a single legislative framework. Also, although there is no specific law on violence against women in Cyprus, most forms of gender-based violence are criminalised under the Violence in the Family (Prevention and Protection of Victims) Laws. Since the early 90s, and pursuant to several laws, criminal courts and family courts have exclusively resolved domestic violence-related criminal and civil disputes respectively.⁸ Criminal law provisions are contained within Law 119(I)/2000 on Violence in the Family (Prevention and Protection of Victims) which has been subject to four amendments. Thus, one should read the 2000 Law in conjunction with the Criminal Code 1959 (Cap. 154) to develop an adequate understanding of the law protecting victims of domestic violence.⁹ Sections 2 and 3 of the 2000 Law contain definitional aspects directly related to the content of the Law. According to the Law, violence means any act, omission, or conduct which causes physical, sexual, or mental harm to any member of the family and includes the violence exercised to achieve sexual intercourse without the consent of the victim, as well as the restriction of that person’s liberty.¹⁰ The Law offers

⁸ Anna Plevri, “Domestic violence in Greek and Cypriot Legal System”, Greek Law Journal “Civil Law Applications”, Vol. 07/2015, pp. 591-609, Nomiki Bibliothiki Publications, Cypriot Law Journal “Review of Family Law”, Vol. 3/2015 (July-September 2015), pp.7-29 (in Greek).

⁹ Ibid.

¹⁰ Cyprus, Domestic Violence (Prevention and Protection of Victims) Law, 119(I) and 212(i)(Ο Περί Βίας στην Οικογένεια – Πρόληψη και Προστασία Θυμάτων – Νόμος του 2000) 119(I)/2000, Articles 2-3 (in Greek) < http://www.cylaw.org/nomoi/enop/non-ind/2000_1_119/full.html > last accessed on

special protection to underage individuals as those are defined under section 2, i.e., any person below the age of 18. Additionally, to the definition of ‘violence’ in section 3(1) of the Law, subsections (2) and (3) specify the offences referred to in sections 4(2) and 5 of the current Law, as well as the offence referred to in Article 147 (incest), 174 (intercourse with young male under 13 years of age), 175 (bestiality) and 177 (indecenty) of the Criminal Code. When the offences specified in Articles 174, 175 and 177 of the Criminal Code are committed in the presence of a minor member of the family, then this amounts to psychological violence against the said minor and is punishable under subparagraph (4) of this section. When the offences of Articles 151-155, 171-173, 231, 234 and 242 of the Criminal Code are committed by a family member against another member, they shall be considered to be of increased seriousness, and higher penalties which have been enumerated in section 4 of the current Law will be imposed. To translate the offences of the Criminal Code 1959 mentioned above, the English text of the 1959 text was used. The author of the current paper strongly disagrees with the language of the Criminal Code 1959 due to the lack of gender-neutral terms and the projection of harmful inter-gender stereotypical demeanours, which promote repeated victimisation and stigmatisation. Nevertheless, such criticism is excluded from the scope of the current paper. Section 151 and 152 criminalise indecent assault on females and males respectively, while sections 153-155 criminalise the corruption of girls under thirteen years of age, girls between thirteen and sixteen years of age, and of a person with mental or intellectual disability. Sections 171-173 also criminalise intercourse between men below the age of seventeen, intercourse with violence, and attempts thereof, respectively. Section 231 provides for grievous bodily harm and section 234 provides for wounding and similar acts. Section 242 deals with common assault. Compared to the corresponding Article of the Criminal Code, the 2000 Law has increased penalties to pair the seriousness of these offences.

Part III of Law 119(I)/2000, which contains Articles 6-8, refers to auxiliary, guidance and counselling institutions that aim to tackle domestic violence, support affected family members, report incidents prescribed by law, and enable the police and the judicial authorities by enhancing the procedures. Part IV provides for the testimonies of witnesses and victims. More specifically, Article 9 specifies that the

22/06/2021; translation available at M. Ioannidou, “Victim Support Services in the EU: An overview and assessment of victims’ rights in practice: Cyprus, 2014” (FRANET, First Elements Euroconsultants Ltd) 19 < https://fra.europa.eu/sites/default/files/fra_uploads/country-study-victim-support-services-cy.pdf > last accessed on 22/06/2021

testimony of a victim and/or victims shall be taken by a police officer of the same sex, unless otherwise requested by the victim of the family counsellor when the victim is a minor.¹¹ In its turn, Article 10 contains extensive rules regarding video-recorded statements by victims or witnesses of crimes under the present Law.¹² Nevertheless, the submission of a video-recorded statement will not be granted if the person whose testimony was videotaped cannot appear in court for cross-examination; if the rules contained in Article 11 for the receiving of such testimony have not been complied with; if the court, exercising its discretion and after having taken into consideration the facts of each case considers that the submission of a video-recorded testimony is not in the best interest of the administration of justice.¹³ Alongside the video-recorded testimony, a typed script should also be submitted.¹⁴ As stated above, Article 11 regulates the rules for the obtaining of the video-recorded statement. The rules contain the name, address, occupation, and status of the person taking the statement as well as of the person handling the video camera. All the information should be mentioned or indicated before the beginning of the recording: such as¹⁵ the place, date and time of commencement of the receipt of the testimony, as well as the time at which the statement will have expired, and also¹⁶ the name, address, occupation and other information related to the person giving the testimony.¹⁷ Finally, the statement should be signed by the person giving the testimony and from the person receiving it.¹⁸ This provision does not apply in the case of an unaccompanied minor.¹⁹ In the case where the rules have not been followed, the Court may allow, or disallow, the submission of a part of the testimony under Article 12. In cases where a visualised testimony has been submitted under Article 10 of the Law, the person whose testimony was video recorded shall be called upon as a witness from the party which requested the submission of such testimony for

¹¹ *Ibid.*, Article 9.

¹² *Ibid.*, Article 10.

¹³ *Ibid.*, Article 11.

¹⁴ Anna Plevri, "Domestic violence in Greek and Cypriot Legal System", Greek Law Journal "Civil Law Applications", Vol. 07/2015, pp. 591-609, Nomiki Bibliothiki Publications, Cypriot Law Journal "Review of Family Law", Vol. 3/2015 (July-September 2015), pp.7-29 (in Greek).

¹⁵ Law 119(I)/2000 (no 6) Article 11.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*, Article 11.

the purposes of cross-examination.²⁰ During the cross-examination, the provisions of Article 55 of the Criminal Procedure Code and Article 19 of the 2000 Law must be followed. A complaint filed by a victim of violence to any police officer, family counsellor, welfare officer, psychologist, physical or any other professional including any member of the Association for the Prevention and Treatment of Domestic Violence (SPAVO) or any family member can be considered evidence, contrary to Article 10 of the Criminal Procedure Code.

Part V of the Law provides for the discretionary powers of the procedure (i.e., reinforcing testimony or the lack thereof, prevention of bullying, spousal coercion) and the testimonies (of professionals, cross-examination). Part VI (Articles 21-25) are associated with the issuing of orders by a criminal court and the rehabilitation of the accused.²¹ The court still retains a great amount of discretionary power to decide upon the orders available under the Law. That said, orders include: removal of minors; a temporary restraining order; removal of the victim; a restraining order; guardianship; and suspension of imprisonment under special conditions.²² In its turn, Part VII established a ‘Violence Victims Fund’ which is administered by the Advisory Committee.²³ Furthermore, Part VIII provides for the establishment and operation of housing or shelters aiming at providing safe accommodation and protection to victims of domestic violence in Cyprus.²⁴ The same part provides for separate offences, such as the harassment of a victim or of a witness (Article 32).²⁵ The 2000 Law also provides for the prohibition of identification and disclosure of personal information, such as the name and address of the victim or a complainant, or of the person against whom the complaint has been made (Article 34).²⁶ Moreover, Article 35 prohibits the delivery, receipt or publication of evidence. Finally, Article 35A also specifies that if a person fails to report a case of violence against a minor or any other person with a serious mental impairment and/or disability this is considered a criminal offence.²⁷

Even though the RoC has established national plans to combat and prevent domestic violence (the first National Action Plan on Prevention and Combating of

²⁰ Ibid., Articles 11-13.

²¹ Ibid., Articles 21-25.

²² Ibid.

²³ Law 119(I)/2000 (no 6) Part VII.

²⁴ Ibid., Part VIII.

²⁵ Ibid., Article 32.

²⁶ Ibid., Article 34.

²⁷ Ibid., Article 35A.

Violence in the Family ran from 2010 to 2013 and the second National Action Plan ran from 2016 to 2019), women across the island still suffer from domestic violence. The phenomenon has become even more prominent during the pandemic, while many of the victims are largely unaware of the associations and/or other measures that are available for their protection. In Cyprus, SPAVO runs a free-of-charge multidimensional domestic-violence helpline (1440). There are two women's shelters for victims of domestic violence run by SPAVO, and they are accessible 24/7, free of charge. The Cyprus Police also provides a helpline for victims, the Citizens' Communication Line (1460). Similarly to 1440, 1460 operates 24/7 and is free of charge.

The Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence - Istanbul Convention

As a member of the Council of Europe, the RoC is a signatory party to the Istanbul Convention on violence against women. Before signing the Convention, the Council of Europe had already promoted a number of initiatives for the protection of women against violence.²⁸ As years went by, the need to establish a strong international framework to protect women from violence became more evident. Thus, in 2008 the Committee of Ministers of Justice of the Council of Europe set up an expert group to draft a Convention aiming at setting common international standards to prevent and combat violence against women and domestic violence. Even though some countries proposed amendments to soften the language or even delete some of the paragraphs and provisions of the final draft, international human rights organisations such as = Amnesty International opposed such amendments claiming that they could weaken the treaty.²⁹ The Convention was finally signed in Istanbul on 11 May 2011; it includes 81 Articles arranged in different Chapters, and it handles violence against women, further acknowledging gender-based violence and domestic violence as a serious phenomenon that needs to be co-ordinately ad-

²⁸ Anna Plevri, Legal framework of violence against women in Cyprus and Greece – The Konstantinoupolis (Istanbul) Convention regarding violence against women, (in English), Europe in Crisis: Crime, Criminal Justice and the way forward, Essays in Honour of Professor Nestor E. Courakis (ISBN: 978-960-596-107-7), Vol. II., Ant. S.Sakkoulas Publications L.P.

²⁹ Amnesty International, *Time to Take a Stand: Amnesty International Opposes Amendments That Will Weaken the Council of Europe Treaty on Violence Against Women* (Amnesty International Publications, 2011), available at <https://www.amnesty.org/download/Documents/32000/ior610042011en.pdf> (last accessed 5 September 2020).

dressed worldwide. It constitutes the first legally-binding treaty in Europe which specifically refers to the long-standing phenomenon of violence against women. Several countries have signed but have yet to ratify the Convention (i.e., Armenia and Bulgaria), while 34 countries have done both. In 2017, the EU signed it as well. A latest development is that Turkey has “left” the Istanbul Convention.

Consequently, the birth of the Istanbul Convention gave rise to the first-ever legally binding set of guidelines which protects women and combats violence against them.³⁰ It shifts the burden of raising awareness about the phenomenon of gender violence on societies around the world and urges them to take effective preventive measures against that said violence to protect the victims and prosecute the culprits.³¹ The RoC signed the Convention on 16 June 2015 but did not ratify it until 10 November 2017. A year later, on 1 March 2018, the Convention came into force in the island of Cyprus. Due to the historical background of the ethnic conflict in Cyprus and the ongoing segregation of the two communities explained above, racism has spread across the Republic. There has been very little said or done to tackle discrimination, racism, and racist violence in Cyprus. Hate-related crimes are not properly documented by the Cyprus police. Consequently, NGO reports, newspapers and platforms constitute a dynamic source of information on cases of racist violence. As Corina Demetriou and Nicos Trimikliniotis state in their 2009 report for Cyprus, there is, generally speaking, a reluctance in Cyprus to classify incidents as being racist, as there is a pervasive denial of racism on the island.³² This denial affects the reporting cycle and gives rise to a high number of dark figures. Nevertheless, the Convention highlights that equality between genders will never be achieved if the State and its institutions turn a blind eye to the phenomenon. Moreover, it expressly specifies that violence against women is a violation of their basic

³⁰ Anna Plevri, *Legal framework of violence against women in Cyprus and Greece – The Konstantinoupolis (Istanbul) Convention regarding violence against women*, (in English), *Europe in Crisis: Crime, Criminal Justice and the way forward*, Essays in Honour of Professor Nestor E. Courakis (ISBN: 978-960-596-107-7), Vol. II., Ant. S.Sakkoulas Publications L.P.

³¹ United Nations Refugee Agency, United Nations Populations Fund and Women’s Refugee Commission, ‘Initial Assessment Report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis; Greece and the former Yugoslav Republic of Macedonia’ (2015), 7

³² Nicos Trimikliniotis and Corina Demetriou, ‘Tolerance and Cultural Diversity Discourses in Cyprus (Accept Pluralism, European University Institute, Florence, Robert Schuman Centre for Advanced Studies); Also see Corina Demetriou, ‘Report on Measures to Combat Discrimination: Directives 2000/43/EC and 2000/78/EC: Country Report 2010: Cyprus (European Network of legal experts in the non-discrimination field, 2010) 52 < <https://www.refworld.org/pdfid/4ed658c82.pdf> > last accessed on 22/06/2021

human rights and a form of discrimination.³³ Generally speaking, the Convention provides for a wide range of offences which includes psychological violence, stalking, physical violence, sexual violence, forced marriage, female genital mutilation, forced abortion, sterilisation, and honour crimes.

Chapter One contains the first 6 Articles that set out the purposes, scope, and definitions of the Convention (Articles 1-6). More specifically, Article 1 specifies that the purpose is set out to be the protection, prevention, prosecution, and elimination of violence against women, as well as the promotion of substantive equality between the genders, the designation of a comprehensive primary and/or secondary legislative framework, the promotion of international cooperation, and the support and assistance between organisations and law-enforcement agencies.³⁴ In order to ensure effective implementation of the provisions contained therein, the Convention established a specific monitoring mechanism which will be analysed below. Article 3 defines the terms ‘violence against women’, ‘domestic violence’, ‘gender’, ‘gender-based violence against women’, ‘victim’ and ‘women’. It thus follows that within the framework of the Convention, ‘violence against women’ is understood as a violation of human rights and a form of discrimination against women, and it encompasses all acts of gender-based violence whether occurring in a public or a private setting.³⁵ Moreover, as also stated in the introduction, ‘domestic violence’ is defined as all acts of physical, sexual, psychological, or economic violence that occurs in the family or domestic unit between former or current spouses or partners.³⁶ It is irrelevant whether or not the partners share or used to share the same residence. Domestic violence does not only address the women of the family but also the children, the men, and the elderly who are often the hidden and/or direct and indirect victims of the phenomenon either during lockdown due to a pandemic or otherwise. Researchers found a strong link between domestic violence against women and child physical abuse which includes trauma, nevertheless this is a separate issue which needs to be addressed also in the framework of children’s rights and international judgments and is thus outside the ambit of the current paper. Furthermore, the term ‘women’ is defined rather broadly as it includes girls under the age of 18.³⁷ Articles 4-6 define the provisions on equality and non-discrimi-

³³ Council of Europe (no 2).

³⁴ *Ibid.*, Article 1.

³⁵ *Ibid.*, Article 3.

³⁶ *Ibid.*

³⁷ Council of Europe (no 2) Article 3.

nation, while they also set the obligations of the State. More specifically, Article 5 obliges parties to take the necessary 'legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere'.³⁸ The article moves on to condemn all forms of discrimination against women, securing the rights of victims without discrimination based on any grounds, including their special characteristics. In its turn, Article 5 provides for the State's obligations to due diligence, namely to prevent, investigate, punish and provide reparations for acts of violence.³⁹ Nevertheless, the precedence given to Cyprus by the ECtHR evidences a particular form of institutional racism embedded in the law-enforcement institutions of the Republic, which is coupled with a lack of transparency.⁴⁰ Despite policies, synergies and networks, institutional racism and inappropriate recording,⁴¹ especially toward non-Cypriot women or women of colour, largely exists.⁴²

Chapter 2 of the Convention moves on to provide for integrated policies and data collection through articles 7-11. The Convention demonstrates that coordinated efforts are of particular importance, especially in policies which should encompass relevant preventive and combating measures and offer a holistic response to violence against women. Yet, as explained above, dark figures in reporting and, thus, in data collection remain high for several reasons, , including institutional racism. Articles 12-17 that form Chapter 3 set out the prevention policies. By engaging in a socio-legal approach, the Convention provides for the general obligations of the State: awareness raising, education, training of professionals, preventive intervention and treatment programmes, and participation of the private sector and the media in the effort to combat the vicious phenomenon of violence against women and domestic violence. Additionally, Article 12 provides for the general obligations of all concerned parties. The measures aim at promoting changes in the social and cultural patterns of behaviour between and among genders that could help eliminate

³⁸ Ibid., Article 5.

³⁹ Ibid.

⁴⁰ EuroMed Rights, 'Situation Report on Violence Against Women', available at <https://www.euromedrights.org/wp-content/uploads/2017/03/Factsheet-2017-VAW-Cyprus-EN.pdf> (last accessed 5 September 2020); In Cyprus, '15 Police Members Charged in Metaxas Murders Case' *in-cyprus* (4 June 2020), available at <https://in-cyprus.philenews.com/15-police-members-charged-in-metaxas-murders-case/> (last accessed 5 September 2020); *Rantsev v Cyprus and Russia*, Appl. no 25965/04(ECtHR, 10 October 2010).

⁴¹ *A.A. v The Republic* (2009) 2 A.A.Δ. 140 27/2/2009;

⁴² ENAR, ENAR's shadow report on racist crime and institutional racism in Europe (2018)

harmful stereotypical attitudes.⁴³ This is a particularly important provision as it sheds light to the misinterpretations and misunderstandings surrounding the phenomenon of violence against women and domestic violence based on stereotypes. Ranging from female genitalia mutilation to breast ironing, child-marriage, virginity tests and other ancient religious and/or cultural traditions, women, including young women, are faced with a never-ending cycle of violence. Nevertheless, this is not a non-European phenomenon as it is often thought to be. One in four women will experience physical and/or sexual violence by an intimate partner at some point in their life. As a matter of fact, 49 million women in Europe have experienced violence.⁴⁴ With an estimated 5,400 homicides against women between the ages of 15 to 49 in Europe, it is evident that this is not merely a phenomenon of the ‘uneducated’, ‘of the poor’ or the ‘underdeveloped’. This is another false stereotype which prevents many women in the Europe from reaching out for help.

Articles 13-17 specify these preventive measures to include awareness-raising, human rights education, the training of professionals, preventive intervention and treatment programmes, and the participation of the private sector and the media in the ‘invisible war’ against violence against women.⁴⁵ It is worth reading the provisions of Chapter 3, Article 42 of the Convention, which emphasises that the parties to the Convention

[...] shall take the necessary legislative or other measures to ensure that, in criminal proceedings initiated following the commission of any of the acts of violence covered by the scope of this Convention, culture, custom, religion, tradition or so-called “honour” shall not be regarded as justification for such acts. This covers, in particular, claims that the victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour.⁴⁶

In addition, Chapter 4 moves on to provide for the obligations of the parties to protect and support women who have encountered violence. Starting from Article 18 and finishing in Article 28, this Chapter enumerates the obligations of parties to adopt the necessary legislative or other measure to protect and support victims

⁴³ Council of Europe (no 2) Article 12.

⁴⁴ World Health Organization (WHO), ‘Violence Against Women’, available at <https://www.euro.who.int/en/health-topics/disease-prevention/violence-and-injuries/areas-of-work/violence/violence-against-women#:~:text=The%20prevalence%20of%20non%2Dfatal,the%20region%20have%20experienced%20violence.> (last accessed on 5 September 2020).

⁴⁵ Council of Europe, (no 2) Articles 13-17.0

⁴⁶ *Ibid.*, Article 42.

through adequate and timely information on available support services and legal measures in a language they understand; to ensure that such victims have access to services facilitating their recovery including legal, psychological, and financial services, as well as housing, education, training and employment; to assist victims with the application of regional and international, as well as individual and collective complaint mechanisms; to provide or arrange for, in an adequate geographical distribution, immediate, short and long-term specialist support services to victims; to provide appropriate and accessible shelters; to set up State-wide, free of charge, round-the-clock helplines with due regard to the anonymity of the callers; to provide appropriate and easily accessible support to victims of sexual violence; to offer protection and support to child witnesses; to encourage any person witness to the commission of acts of violence or who has reasonable grounds to believe that such an act may be committed or who is expected to report to the competent authorities and/or organisations.⁴⁷ The fact that the services offered do not depend on the willingness of a victim to legally move forward against any perpetrators is of the essence, as it allows victims to heal while they acknowledge and process their hardships, which could result in the unwillingness of some victims to move forward with charges. Effective cooperation between all relevant State agencies —including the judiciary including other law enforcement agencies and NGOs is of vital importance.

Chapter 5 of the Convention, Articles 29-48, provides for the substantive law. Article 29 deals with civil lawsuits and remedies.⁴⁸ More specifically, it obliges parties to set up the necessary primary and/or secondary legislation with adequate civil remedies against perpetrators and/or State authorities. Article 30 provides for the right to claim compensation for any of the offences established within the Convention.⁴⁹ Moreover, Article 31 covers custody and visitation rights while ensuring the safety of the victim and/or of any children in the family.⁵⁰ Furthermore, Article 32 ensures that parties will take the appropriate legislative and/or other measures to avoid, annul or dissolve any forced marriage cases without any undue financial or administrative burdens placed on the victim.⁵¹ Additionally, Articles 33 to 41 enlist the criminal offences which must be included within the national legislations

⁴⁷ *Ibid.*, Articles 18-28.

⁴⁸ *Ibid.*, Articles 29-48.

⁴⁹ *Ibid.*, Article 30.

⁵⁰ *Ibid.*, Article 31.

⁵¹ *Ibid.*, Article 32.

of the parties.⁵² More specifically, Article 33 begins with criminalising psychological violence by intentionally ‘seriously impairing a person’s psychological integrity through coercion or threats’.⁵³ Article 33 also criminalises stalking, which is the repeated ‘threatening conduct directed at another person, causing her or him to fear for her or his safety’.⁵⁴ Article 35 further refers to physical violence, which includes the ‘intentional conduct of committing acts of physical violence against another person’.⁵⁵ Moreover, Article 36 criminalises sexual violence, which includes rape (by penetration by any bodily part or object), marital rape and coercion to engage in non-consensual acts of a sexual nature with a third person.⁵⁶ According to Article 37, forced marriage of an adult or a child also constitutes an offence. In addition, Article 38 criminalises female genital mutilation (FGM), which includes the removal of the flesh (clitoridectomy and/or excision) without sewing the labia minora and/or majora together.⁵⁷ FGM is a rampant phenomenon in many regions and has preoccupied the legislature and the academia for many years. It includes the following intentional conducts:

- a) excising, infibulating or performing any other mutilation to the whole or any part of a woman’s labia majora, labia minora or clitoris;
- b) coercing or procuring a woman to undergo any of the acts listed in point a;
- c) inciting, coercing or procuring a girl to undergo any of the acts listed in point a.⁵⁸

As a phenomenon, FGM is a widespread, cruel practice in Africa and the Middle East with countries such as Somalia, Eritrea, Yemen, Gambia, Mali, Sudan, Ethiopia, Kenya, Iraq, Yemen, and Egypt being representative examples. The 2014-2015 UNICEF survey reported 38.4% prevalence of FGM amongst women and girls aged 15 to 49 and 10% amongst girls below the age of 14.⁵⁹ While this is a prominent phenomenon in Africa, the Middle East, and Asia, other forms of female genital mutilation have also been reported in other countries and among ethnic groups.⁶⁰ Fur-

⁵² Ibid., Articles 33-41.

⁵³ Ibid., Article 33.

⁵⁴ Ibid.

⁵⁵ Ibid., Article 35.

⁵⁶ Ibid., Article 36.

⁵⁷ Ibid., Article 38; also see United Nations Children’s Fund (UNICEF), *Female Genital Mutilation/Cutting: A Global Concern*, (New York, 2016); UNICEF, *Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change*, (New York, 2013).

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

thermore, the vast migration flows have increased the number of girls and women subjected to FGM in other regions and continents, such as Europe and Australia.⁶¹ Consequently, FGM has increasingly become more evident across different regions, including the European region. Article 39 moves on to deal with forced abortion and sterilisation, while Article 40 deals with sexual harassment which includes ‘any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment’.⁶² Aiding and abetting the commission of the offences established in Articles 33, 34, 35, 36, 37, 38a and 39 of the Convention is also an offence. Attempt to commit the offences established in Articles 35, 36, 37, 38a and 39 of the Convention also constitutes an offence under Article 41.⁶³ The criminal offences contained and/or established in the Convention are applicable irrespective of the nature of the relationship between victims and perpetrators. Article 46 further provides for aggravating circumstances and includes an offence committed against a former or current spouse or partner by a member of the family and/or a cohabitant, against a vulnerable person or in the presence of a child.⁶⁴

Moreover, acknowledging the importance of cooperation between countries, and in particular between the parties to the Convention in combating violence against women, Article 47 provides for the possibility of considering sentences passed by another party in relation to the offences established in accordance with the Convention. Of course, under EU law, Member States of the Union are obliged to take into account convictions passed in other EU countries.⁶⁵ Thus, a decentralised system for exchanging information about previous convictions, namely the European Criminal Records Information System (ECRIS), was set up in 2012 to aid effective cooperation.⁶⁶ However, ECRIS allows the authorities to only obtain information

⁶¹ Ibid.

⁶² Council of Europe (no 2) Articles 39-40.

⁶³ Ibid., Article 41.

⁶⁴ Ibid., Article 46.

⁶⁵ Council of the European Union, ‘Council Framework Decision 2008/675/JHA of 24 July 2008 on Taking Account of Convictions in the Member States of the European Union in the Course of New Criminal Proceedings’ (15 August 2008) L 220 *Official Journal of the European Union* 32–34.

⁶⁶ European Commission, ‘European Criminal Records Information System (ECRIS)’, available at https://ec.europa.eu/info/law/cross-border-cases/judicial-cooperation/tools-judicial-cooperation/european-criminal-records-information-system-ecris_en 9 (last accessed 5 September 2020).

on EU nationals, thus excluding non-EU nationals.⁶⁷ To fill this gap, the European Commission proposed a Regulation to establish a centralised system in 2017.⁶⁸ The system which reached agreement in 2019 is expected to be fully operational by 2022.⁶⁹ Consequently, having the provisions contained in Article 47 become fully functional is still a long way to go. The final provision of Chapter 5, Article 48, provides for the prohibition of mandatory, alternative dispute-resolution process, including mediation and conciliation.⁷⁰

Articles 49-58, which form Chapter 6, set up procedural aspects of the Convention, including investigation, prosecution, procedural law, and protective measures. Article 52 gives the power to competent authorities to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk to prohibit contact between victims and/or people at risk with the perpetrators.⁷¹ The specific article essentially prioritises the safety of the victims or people at risk. Furthermore, Article 53 ensures that parties to the Convention guarantee the legislatively appropriate restraining or protection orders to victims subjected to all forms of violence.⁷² Article 54 also protects the personal information of victims in civil or criminal proceedings relating to the sexual history and conduct of the victim.⁷³ Importantly, Article 55 specifies that the offences established in accordance with Articles 35, 36, 37, 38 and 39 of the Convention shall be carried out even if the victim withdraws her or his statement or complaint.⁷⁴ More measures of protection are included in Article 56, while Article 57 deals with the right to legal assistance and free legal aid.⁷⁵

Additionally, Chapter 7, Articles 59-61, establishes specific provisions with regard to migration and asylum, and includes residential status, gender-based asylum claims, and non-refoulement.⁷⁶ Chapter 8, Articles 62-65 deals with international cooperation in preventing, combating, prosecuting, protecting, investigating, and

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Council of Europe (no 2) Article 48.

⁷¹ Ibid., Article 52.

⁷² Ibid., Article 53.

⁷³ Ibid., Article 54.

⁷⁴ Ibid., Article 55.

⁷⁵ Ibid., Articles 56-57.

⁷⁶ Ibid., Articles 59-61.

enforcing the relevant law.⁷⁷ The Chapter not only seeks to achieve a uniform and joint mechanism, but also seems to be far reaching, as it considers a number of factors which include but are not limited to legal pluralism, cultural barriers, and State prioritisation. Chapter 9 further establishes a monitoring mechanism through Articles 66-70. A group of experts referred to as 'GREVIO' is entrusted with the monitoring of the implementation of the Convention by the Parties.⁷⁸ In GREVIO's first General Activity Report, the focus section, which includes the first trends and challenges emerging from the country monitoring, does not refer to Cyprus at all. This is understandable though, as the Convention only came into force on 1 March 2018, which suggests that the challenges emerging in Cyprus are expected to be seen in future reports. Of course, when the time comes, the report should include the terrifying increase of domestic-violence incidents during the pandemic, as the pandemic unearthed many national and international deficiencies. Nevertheless, the report is particularly enlightening, as it contains a number of important challenges which need to be addressed by Member States. Article 67 also establishes the Committee of the Parties which is composed by the representatives of the Parties to the Convention.⁷⁹ Practically, parties shall submit to the Secretary General of the Council of Europe, based on the questionnaire prepared by GREVIO, which is a report on legislative and other measures giving effect to the provisions of the Convention. GREVIO will then move on to consider the report and evaluate the procedure which is divided into rounds. GREVIO may also receive information from NGOs and the civil society, as well as from national institutions protecting human rights, and adopt, where appropriate, general recommendations on the implementation of the Convention. National parliaments shall be invited to participate in the monitoring of the measures. Nevertheless, as it is the case with many other committees, the monitoring is largely dependent on cultural relativism, social understandings, and priorities of each State. It is an inter-relationship of trust, which can easily be hindered, especially in the case of the island of Cyprus, as institutional racism and other forms of human right violations are deeply embedded not only in the backbone of society, but also of the organs of the State. Article 71 in Chapter 10, emphasises that the Convention shall not affect obligations of parties arising from other hard

⁷⁷ Ibid., Articles 62-65.

⁷⁸ Council of Europe, Istanbul Convention Action against violence against women and Domestic Violence, 'General Reports on GREVIO's Activities' (2020), available at <https://www.coe.int/en/web/istanbul-convention/grevio-annual-reports> (last accessed 5 September 2020).

⁷⁹ Council of Europe (no 2) Article 67.

laws.⁸⁰ Simultaneously, Article 73 in Chapter 12 states that the Convention shall not prejudice against or in favour of the provisions on national laws and binding international instruments which are already in force or may come into force, and which contain more favourable rights in preventing and combating violence against women and domestic violence.⁸¹ Any potential disputes that may arise concerning the application or interpretation of any of the provisions of the Convention shall be first resolved through negotiation, conciliation, arbitration or any other methods of ‘peaceful settlement accepted by mutual agreement between’ the disputed parties.⁸² Finally, when one is considering the long-standing ‘Cyprus problem’ but also the difference *de jure* jurisdictions as explained in *Bashir* case,⁸³ and thus the different *de facto* and *de jure* administrative jurisdictions within the Cyprus, Article 77 is of particular importance. This article clarifies that ‘any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply’.⁸⁴

Domestic Violence as an Issue Under the ECtHR: A Brief Overview

The Istanbul Convention repeatedly emphasises that gender-based violence is a human rights issue. It is thus unsurprising, yet quite troubling, that there is a large number of domestic-violence applications before the ECtHR.

[T]he issue of domestic violence, which can take various forms ranging from physical to psychological violence or verbal abuse ... is a general problem which concerns all member States and which does not always surface since it often takes place within personal relationships or closed circuits and it is not only women who are affected. The [European] Court [of Human Rights] acknowledges that men may also be the victims of domestic violence and, indeed, that children, too, are often casualties of the phenomenon, whether directly or indirectly [...]⁸⁵

⁸⁰ *Ibid.*, Article 71.

⁸¹ *Ibid.*, Article 73.

⁸² *Ibid.*, Article 74.

⁸³ *R (on the application of Tag Eldin Ramadan Bashir and others) v Secretary of State for the Home Department* [2018] UKSC 45 < <https://www.supremecourt.uk/cases/uksc-2017-0106.html> > last accessed on 22/06/2021

⁸⁴ Council of Europe (no 2), Article 77.

⁸⁵ *Opuz v Turkey*, Appl. no 33401/02 (ECtHR, 9 June 2009), para 132, available at <https://www.refworld.org/cases,ECHR,4a2f84392.html> (last accessed 5 September 2020).

According to the ECHR, domestic violence violates a considerable number of human rights. When a State fails to protect a victim one way or another, a domino effect on human rights is triggered. More specifically, in *Kontrova v Slovakia*, the applicant initially filed a criminal complaint against her husband,⁸⁶ but later withdrew the complaint, escorted by her husband. The husband then shot dead the children of the family, thereupon the applicant claimed that the police failed to take appropriate action to protect the victims, even though they were allegedly aware of her husband's behaviour.⁸⁷ The ECtHR held that there had been violations of Article 2 (right to life) and Article 13 (right to an effective remedy) due to the failure of the authorities to protect the victims' lives and to offer the possibility to the complainant to apply for compensation.⁸⁸ The Court has accepted that, as a gender-based type of violence, domestic violence also violates Article 3 (prohibition of inhuman or degrading treatment), Article 14 (prohibition of discrimination),⁸⁹ Article 8 (right to private and family life),⁹⁰ and Article 6 (right to a fair trial).⁹¹ The issue of the protection of one's property under Article 1 of Protocol No. 1 in domestic abuse cases has been also raised before the Court.⁹²

However, as seen by the previous section, GREVIO is granted the ability to receive individual complaints through the Istanbul Convention, potentially creating a tension between GREVIO and the ECtHR over precedence. The ECtHR has been particularly influential worldwide through its case laws on international human rights. Before the Istanbul Convention, the ECtHR would have definitely been the defining body to address cases of gender-based violence on a legally-binding basis.

⁸⁶ *Kontrova v Slovakia*, Appl. no 7510/04 (ECtHR, 31 May 2007), available at <https://hudoc.echr.coe.int/eng#%22itemid%22:%22001-80696%22> (last accessed 5 September 2020).

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ *Talpis v Italy*, Appl. no 41237/14, (ECtHR, 21 March 2017), available at <http://hudoc.echr.coe.int/eng?i=001-171508> (last accessed 5 September 2020); *Halime Kilic v Turkey*, Appl. no 22492/93 (ECtHR, 28 March 2000).

⁹⁰ *E.S. & Ors v Slovakia*, Appl. no 8227/04, (ECtHR, 15 September 2019), available at <https://hudoc.echr.coe.int/eng-press#%22itemid%22:%22003-2848516-3137536%22> (last accessed 5 September 2020).

⁹¹ *D.M.D. v Romania*, Appl. no 23022/13 (ECtHR, 22 March 2013); *Wasiewaska v Poland Application*, Appl. no 28975 and 33406/04 (ECtHR, 23 February 2010), available at <https://hudoc.echr.coe.int/eng-press#%22itemid%22:%22003-3042405-3360132%22> (last accessed 5 September 2020).

⁹² *J.D. and A v the United Kingdom*, Appl. no 32949/17 and 34614/17 (ECtHR, 24 February 2020), available at <https://hudoc.echr.coe.int/eng#%22itemid%22:%22001-196897%22> (last accessed 5 September 2020).

As legal developments move forward, so does the ECtHR. It is for this reason that the Court has made references to the Istanbul Convention, presenting it as a set of guidelines, while determining the responsibilities of the Parties in domestic-violence cases at the same time. Whether a relationship of complementary inter-dependence has been created amongst the two without contradicting the ECHR is still unclear.⁹³ Nevertheless, whether there will be tension or not between the ECtHR and GREVIO after the latter begins to decide individual complaints remains to be seen.⁹⁴ However, a potential difference and/or tension can be resolved through Article 71 of the Istanbul Convention mentioned above. It can be argued that between drafting the Istanbul Convention and granting powers to GREVIO, Article 71 strove to resolve a potential conflict..

The European Directive 2012/29/EU on Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime

Human rights values are not only protected by the Council of Europe, but EU Member States, such as the Republic of Cyprus, agree to respect, among other things, the rule of law under Article 2 of the Treaty of the European Union (TEU). According to the latter,

[...] the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.⁹⁵

Thus, Member States bear the responsibility to protect and promote human rights values, including gender equality. As mentioned above, the *Council of Eu-*

⁹³ *Volodina v Russia*, Appl. no 41261/17, (ECtHR, 9 July 2019), para 60, available at [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-194321%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-194321%22]}) (last accessed 5 September 2020); *Talpis v Italy*, Appl. no 41237/14 (ECtHR, 21 March 2017), available at <http://hudoc.echr.coe.int/eng?i=001-171508> (last accessed 5 September 2020); *Halime Kilic v Turkey*, Appl. no 22492/93 (ECtHR, 28 March 2000).

⁹⁴ Gizem Guney, "The Group of Experts Under the Istanbul Convention on Preventing and Combating Violence Against Women and Domestic Violence and the ECtHR: Complementary or Contradictory Tools?" (*European Journal of International Law*, 31 March 2020), available at <https://www.ejiltalk.org/the-group-of-experts-under-the-istanbul-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence-and-the-ecthr-complementary-or-contradictory-tools/> (last accessed 5 September 2020).

⁹⁵ European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C325/5

rope Convention on Preventing and Combating Violence against Women and Domestic violence signed by the EU is pending ratification. On an EU level, victim's rights are reinforced at all stages of the criminal process through the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support, and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.⁹⁶ The Directive sets the minimum standards on the rights, support, and protection of victims of gender-based violence. More specifically, the Directive begins with definitional aspects, which include the definition of a victim as:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.⁹⁷

There is a distinction made between family members of a victim whose death has been caused by a criminal offence and family members of victims who do not fall under the definition of victims under Article 2.

Chapter 2, which is formed by Articles 3-9, contains provision on information and support such as the right to understand and to be understood, emphasising the inter-dependence of the legally-censored phenomenon with culture once more.⁹⁸ Article 4 specifically provides for the rights to receive information from the first contact with a competent authority.⁹⁹ It essentially places the burden on the Member State to ensure that victims are offered essential information without any unnecessary delays. This information includes: the type of support they can obtain and from whom; the procedures for making complaints; information of protection measures; information on legal advice, legal aid and any other sort of advice; compensation; entitlement to interpretation and translation; special measures, procedures or arrangements which are available to protect their interests in the Member State; the procedures for making complaints where the rights of the victims and/or complainants were not respected by the competent authority operating within the

⁹⁶ The European Parliament & The Council of the European Union, 'Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime, and Replacing Council Framework Decision 2001/220/JHA' (14 November 2012) L315/57 *Official Journal of the European Union*.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*, Articles 3-9.

⁹⁹ *Ibid.*, Article 4.

context of criminal proceedings; the available restorative justice services; and the expenses incurred as a result of their participation in the criminal proceeding and reimbursements.

Moreover, Articles 5 and 6 guarantee the rights of the victims when making a complaint, as well as the right to receive information about their case, respectively. Article 7 further provides for the right to interpretation and translation, while Article 8 ensures the right to access victim-support services. In addition, Article 9 sets the minimum standards of support which ought to be provided by victim-support services and includes emotional and psychological support, information about specialist support, help with financial and practical issues caused by crime, as well as the prevention of repeated victimisation, intimidation and retaliation.¹⁰⁰

Chapter 3, which includes Articles 10-17, provides for the rights of individuals participating in criminal proceedings, including the right to be heard, the rights in the event of a decision to not prosecute, right to safeguards in the context of restorative justice services, the right to legal aid, the right to reimbursement of expenses, the right to the return of property, the right to decision on compensation from the offender in the course of criminal proceedings and the rights of victims residing in another Member State.¹⁰¹ In its turn, Chapter 4, which contains Articles 18-24, specifically addresses the rights of the victims and the recognition of victims with specific protection needs.¹⁰² The right to protection shall be ensured; the victims and family members will be protected from repeated victimisation, intimidation and retaliation. The necessary conditions, i.e., video recordings, must be set up to ensure the right to avoid contact between victims and offenders within the premises where criminal proceedings are conducted, unless the criminal proceedings require such contact. The same applies with regard to criminal investigations. In addition, Article 21 ensures that the privacy of the victims —and especially of child victims— is protected, including personal characteristics, images of victims and of their family members.¹⁰³ Nevertheless, the Article expressly provides for a balance between the right to protect privacy, personal integrity and personal data of victims with the respect for freedom of expression, information and pluralism of the media. Articles 22 and 23 deal with the identification and the protection of specific protection measures a victim may require, respectively. In addition to the measures provided

¹⁰⁰ The European Parliament (no 85) Article 9.

¹⁰¹ *Ibid.*, Articles 10-17.

¹⁰² *Ibid.*, Articles 18-34.

¹⁰³ *Ibid.*, Article 21.

for in Article 23, Member States shall ensure the protection of child victims during criminal proceedings under Article 24.¹⁰⁴

Finally, Chapter 5 which contains only 2 Articles, namely Articles 25 and 26, provide for the training of anyone who comes into contact with victims, such as police officers and judges, and for the cooperation and coordination of services, respectively.¹⁰⁵ Although there is an evident limitation regarding the application of specific rights to all victims, the Directive constitutes an up-to-date, modern tool that strengthens victims' rights across Europe. By either extending or setting out new standards and mechanisms of protection to meet victim's needs, the Directive directs the burden of application, or the lack thereof, to the Member State. Raising awareness and informing victims about their rights and available mechanisms of protection constitute an integral part of the Directive which Member States often fail to comply with.

Furthermore, the EU tries to raise awareness of the vicious, long-standing phenomenon of domestic violence through campaigns at a national and transnational level, as well as by conducting research and exchanging good practices. More specifically, , the 2017 European Commissioner for Justice, Consumer and Gender dedicated the year to combating violence against women. By launching a social media campaign, the Union tried to spread awareness. Similarly, in April 2019, the Commission launched another campaign under the hashtag #DigitalRespect4Her, which promoted the exchange of women's stories across the world.¹⁰⁶ From 2020 onwards, the European Institute for Gender Equality (EIGE) monitors violence against women within the Gender Equality Index. The signature of the Convention of the Council of Europe by the EU shows the commitment of the latter at an international level. While there are still many concerning myths surrounding violence against women, such as that domestic violence is a private issue and that we should not get involved, or that addressing gender-based violence means imposing ideas and values onto other cultures, or that there would be fewer rapes if women refrained from risky behaviours, violence against women continues to beleaguer Europe, including Cyprus.

¹⁰⁴ Ibid., Articles 23-24.

¹⁰⁵ Ibid., Articles 25-26.

¹⁰⁶ European Commission, 'Let's Put an End to Violence Against Women' (November 2019), available at https://ec.europa.eu/info/sites/info/files/factsheet-eu_action_to_combat_violence_against_women-2019.pdf (last accessed 5 September 2020).

Conclusion

The use of violence by a husband against his wife is a particular aspect of violent crimes inside the family, of which the underlying cause is the use of violence as a means of a husband's willpower enforcement upon his wife and his sovereignty upon his family on the basis of his physical strength. Violence replaces speech and power replaces logic. The equality that should characterize the relationships between the spouses is lost [...]¹⁰⁷

As patriarchal values remain deep-rooted in the Cypriot society, it is up to the State to acknowledge the general impact of the COVID-19 pandemic to victims of domestic violence, as well as the measures that need to be taken to combat domestic and inter-gender violence. While the rise of domestic-violence incidents during the pandemic send the message that the Cypriot society first needs to recognise that there is, indeed, a problem, the international, regional, and national legal frameworks remain largely unknown to the general public.

The lockdown was essentially a trap for women, mothers, and their children, as the measures single-handedly delivered the most powerful weapon to the abusers: that of social isolation. Social isolation helped the perpetrators strengthen the vicious cycle of abuse by enforcing control and limiting, even further, a victim's access to society, to loved ones and to support networks. The feeling of despair and fear we all experienced during the COVID-19 pandemic was nothing compared to our counterparts, who were silenced, humiliated and tortured.

Through The Violence in the Family (Prevention and Protection of Victims) Law of 2000, the RoC prescribes the definitional aspects of gender-based violence, while providing for the prevention of and combat against abuse in general and domestic violence in particular. The national law is largely based on the cooperation of multiple State agencies and NGOs. Amidst the pandemic, and even outside of a national framework, it is imperative that domestic violence be effectively and duly addressed, while measures should have an immediate effect to ensure a timely protection of affected individuals. Organs of the State, such as commissioners, the media (including social media), NGOs, and the civil society should play an active role in ensuring the spread of awareness and providing the tools available to victims, as well as meting out punishment to the perpetrators.

¹⁰⁷ *Attorney General v Georgiou* (2002) 2 CLR 464

The Istanbul Convention is based on four pillars: prevention, protection, prosecution, and policy coordination. The rise of domestic-violence incidents during the pandemic emphasised that it is imperative to follow international guidelines and engage in a coordinated effort to challenge stereotypes and break the cycle of violence. Victims and their families should be aware of their rights, as those are prescribed by international hard laws. On an EU level, the European Commission should take effective measures to ensure the implementation of the international legal framework, and to support victims of violence timely and adequately, as guaranteed by the international Conventions and as provided within the Directive 2012/29/EU. The European monitoring mechanism should re-examine national legal frameworks and ensure that they effectively prevent, address, and combat domestic violence. Finally, due to the horrifying increase of domestic violence, authorities and international and regional monitoring mechanisms should ensure that laws, hotlines and all other relevant information are widely publicised, while also seeking to immediately and effectively apply the relevant legal frameworks.

Bibliography

Primary Sources

Cases:

A.A. v The Republic (2009) 2 A.A.Δ. 140 27/2/2009;

Attorney General v Georgiou (2002) 2 CLR 464

D.M.D. v Romania, Appl. no 23022/13 (ECtHR, 22 March 2013)

E.S. & Ors v Slovakia, Appl. no 8227/04, (ECtHR, 15 September 2019), available at <https://hudoc.echr.coe.int/eng-press#%22itemid%22:%22003-2848516-3137536%22>} (last accessed 5 September 2020).

Halime Kilic v Turkey, Appl. no 22492/93 (ECtHR, 28 March 2000).

J.D. and A v the United Kingdom, Appl. no 32949/17 and 34614/17 (ECtHR, 24 February 2020), available at <https://hudoc.echr.coe.int/eng#%22itemid%22:%22001-196897%22>} (last accessed 5 September 2020).

Kontrova v Slovakia, Appl. no 7510/04 (ECtHR, 31 May 2007), available at <https://hudoc.echr.coe.int/eng#%22itemid%22:%22001-80696%22>} (last accessed 5 September 2020).

Opuz v Turkey, Appl. no 33401/02 (ECtHR, 9 June 2009), para 132, available at <https://www.refworld.org/cases,ECHR,4a2f84392.html> (last accessed 5 September 2020).

R (on the application of Tag Eldin Ramadan Bashir and others) v Secretary of State for the Home Department [2018] UKSC 45 < <https://www.supremecourt.uk/cases/uksc-2017-0106.html> > last accessed on 22/06/2021.

Talpis v Italy, Appl. no 41237/14, (ECtHR, 21 March 2017), available at <http://hudoc.echr.coe.int/eng?i=001-171508> (last accessed 5 September 2020).

Volodina v Russia, Appl. no 41261/17, (ECtHR, 9 July 2019) available at [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-194321%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-194321%22]}) (last accessed 5 September 2020)

Wasiewaska v Poland Application, Appl. no 28975 and 33406/04 (ECtHR, 23 February 2010), available at [https://hudoc.echr.coe.int/eng-press#{%22itemid%22:\[%22003-3042405-3360132%22\]}](https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-3042405-3360132%22]}) (last accessed 5 September 2020).

Legislation:

Council of Europe, Amnesty International, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, Article 3(b), available at <https://www.refworld.org/docid/548165c94.html> (last accessed 5 September 2020).

Council of Europe, Istanbul Convention Action against violence against women and Domestic Violence, ‘General Reports on GREVIO’s Activities’ (2020), available at <https://www.coe.int/en/web/istanbul-convention/grevio-annual-reports> (last accessed 5 September 2020).

Cyprus, Domestic Violence (Prevention and Protection of Victims) Law, 119(I) and 212(i)(Ο Περί Βίας στην Οικογένεια – Πρόληψη και Προστασία Θυμάτων – Νόμος του 2000) 119(I)/2000, Articles 2-3 (in Greek) < http://www.cylaw.org/nomoi/enop/non-ind/2000_1_119/full.html > last accessed on 22/06/2021

European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C325/5

Ο περί της Σύμβασης του Συμβουλίου της Ευρώπης για την Πρόληψη και την Καταπολέμηση της Βίας κατά των Γυναικών και της Ενδοοικογενειακής Βίας

(Κυρωτικός) Νόμος του 2017 (Ν. 14(III)/2017) http://www.cylaw.org/nomoi/arith/2017_3_014.pdf last accessed on 22 July 2021.

Other Statutory instruments:

Council of the European Union, ‘Council Framework Decision 2008/675/JHA of 24 July 2008 on Taking Account of Convictions in the Member States of the European Union in the Course of New Criminal Proceedings’ (15 August 2008) L 220 *Official Journal of the European Union* 32–34.

The European Parliament & The Council of the European Union, ‘Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime, and Replacing Council Framework Decision 2001/220/JHA’ (14 November 2012) L315/57 *Official Journal of the European Union*.

Secondary Sources

Chapter in books:

Plevri A, Legal framework of violence against women in Cyprus and Greece – The Konstantinoupolis (Istanbul) Convention regarding violence against women, (in English),

Europe in Crisis: Crime, Criminal Justice and the way forward, Essays in Honour of Professor

Nestor E. Courakis (ISBN: 978-960-596-107-7), Vol. II., Ant. S.Sakkoulas Publications L.P.

Journals:

Gizem Guney, ‘The Group of Experts Under the Istanbul Convention on Preventing and Combating Violence Against Women and Domestic Violence and the ECtHR: Complementary or Contradictory Tools?’ (*European Journal of International Law*, 31 March 2020), available at <https://www.ejiltalk.org/the-group-of-experts-under-the-istanbul-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence-and-the-ecthr-complementary-or-contradictory-tools/> (last accessed 5 September 2020).

Plevri A., “Domestic violence in Greek and Cypriot Legal System”, Greek Law Journal “Civil Law Applications”, Vol. 07/2015, pp. 591-609, Nomiki Bibliothiki

Publications, Cypriot Law Journal “Review of Family Law”, Vol. 3/2015 (July-September 2015), pp.7-29 (in Greek).

Online Sources

Γραφείο Τύπου και Πληροφοριών, ‘Διάγγελμα του Προέδρου της Δημοκρατίας κ. Νίκου Αναστασιάδη, 23/03/2020’ (23/03/2020), available at https://www.pio.gov.cy/coronavirus/press/23032020_12.pdf (last accessed 5 September 2020).

Amnesty International, *Time to Take a Stand: Amnesty International Opposes Amendments That Will Weaken the Council of Europe Treaty on Violence Against Women* (Amnesty International Publications, 2011), available at <https://www.amnesty.org/download/Documents/32000/ior610042011en.pdf> (last accessed 5 September 2020).

ENAR, ENAR’s shadow report on racist crime and institutional racism in Europe (2018)

EuroMed Rights, ‘Situation Report on Violence Against Women’, available at <https://www.euromedrights.org/wp-content/uploads/2017/03/Factsheet-2017-VAW-Cyprus-EN.pdf> (last accessed 5 September 2020).

In Cyprus, ‘15 Police Members Charged in Metaxas Murders Case’ *in-cyprus* (4 June 2020), available at <https://in-cyprus.philenews.com/15-police-members-charged-in-metaxas-murders-case/> (last accessed 5 September 2020); *Rantsev v Cyprus and Russia*, Appl. no 25965/04(ECtHR, 10 October 2010).

European Commission, ‘European Criminal Records Information System (ECRIS)’, available at https://ec.europa.eu/info/law/cross-border-cases/judicial-cooperation/tools-judicial-cooperation/european-criminal-records-information-system-ecris_en (last accessed 5 September 2020).

European Commission, ‘Let’s Put an End to Violence Against Women’ (November 2019), available at https://ec.europa.eu/info/sites/info/files/factsheet-eu_action_to_combat_violence_against_women-2019.pdf (last accessed 5 September 2020).

In Cyprus, ‘Sharp Rise in Domestic Violence Amid Covid-19 Outbreak’ *in-cyprus* (2 April 2020), available at <https://in-cyprus.philenews.com/sharp-rise-in-domestic-violence-amid-covid-19-outbreak/> (last accessed 5 September 2020).

M. Ioannidou, “Victim Support Services in the EU: An overview and assessment of victims’ rights in practice: Cyprus, 2014” (FRANET, First Elements Eurocon-

sultants Ltd) 19 < https://fra.europa.eu/sites/default/files/fra_uploads/country-study-victim-support-services-cy.pdf > last accessed on 22/06/2021.

Nicos Trimikliniotis and Corina Demetriou, “Tolerance and Cultural Diversity Discourses in Cyprus (Accept Pluralism, European University Institute, Florence, Robert Schuman Centre for Advanced Studies); Also see Corina Demetriou, “Report on Measures to Combat Discrimination: Directives 2000/43/EC and 2000/78/EC: Country Report 2010: Cyprus (European Network of legal experts in the non-discrimination field, 2010) 52 < <https://www.refworld.org/pdfid/4ed658c82.pdf> > last accessed on 22/06/2021

Republic of Cyprus, “The President of the Republic, Mr Nicos Anastasiades, addresses the Cyprus people on Coronavirus, 23/03/2020” available at <https://www.presidency.gov.cy/cypresidency/cypresidency.nsf/All/01801183804A4B-28C22585DF0035884F?OpenDocument> (last accessed on 22 July 2021).

UNFICYP, ‘Domestic Violence and COVID-19’ (Technical Committee on Gender Equality, 6 May 2020), available at https://unficyp.unmissions.org/domestic-violence-and-covid-19?fbclid=IwAR1TTJPxGwf115a3jwKrfCyIQ7VVUC_qIS996PYnDdnr-TBtK0Zlkhk_Wc (last accessed 5 September 2020).

UNICEF, *Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change*, (New York, 2013).

United Nations Children’s Fund (UNICEF), *Female Genital Mutilation/Cutting: A Global Concern*, (New York, 2016)

United Nations Refugee Agency, United Nations Populations Fund and Women’s Refugee Commission, ‘Initial Assessment Report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis; Greece and the former Yugoslav Republic of Macedonia’ (2015).

World Health Organization (WHO), ‘Violence Against Women’, available at <https://www.euro.who.int/en/health-topics/disease-prevention/violence-and-injuries/areas-of-work/violence/violence-against-women#:~:text=The%20prevalence%20of%20non%2Dfatal,the%20region%20have%20experienced%20violence.> (last accessed on 5 September 2020).

**BOOK
REVIEWS**

The Legal World of Polyvios Polyviou.

A Review of 11 Books Published between 2016-2021

Introduction

Polyvios (Polys) G. Polyviou is widely considered as one of the leading advocates in Cyprus. Son of advocate Georgios Polyviou, one of the Greek Cypriot members of the Joint Constitutional Committee that drafted the Constitution of Cyprus in 1960, grandson of Georgios Chryssafinis, former Chair of the Nicosia Bar Association, and great-grandson of Nicolaos Chryssafinis, also former Chair (and ‘Dean’) of the Nicosia Bar, and founder of the law firm Chryssafinis Polyviou in the early 1900s, Polyviou has been a leading figure in Cypriot law for more than four decades. After teaching law in the University of Oxford as lecturer in the 1970s, he excelled in public and private law cases before the Cypriot courts, having also participated in several proceedings before international courts. In 2011 he was appointed as Commissioner of Inquiry to investigate one of the most tragic incidents in the recent history of the island, an explosion which occurred in a Cypriot military base killing 13 people and destroying the island’s power station. His Report assigned personal blame to the then President of the Republic.

During the past decade Polyviou has been extremely prolific in authoring new books. Following several new publications focusing on the Cyprus Problem and Cyprus’ constitutional struggle for survival between 2009-2015,¹ Polyviou has published in recent years a number of new monographs in purely legal issues in the field of contract law, tort law, labour law, human rights law, and criminal law. This collective book review will elaborate on eleven books by Polyviou, consisting of 14 volumes and published between 2016-2021. I will also refer to three additional

¹ Π. Πολυβίου, Μακάριος. *Τα Τρία Λάθη*, Καστανιώτη: Αθήνα, 2009, Π. Πολυβίου, *Το Κυπριακό Πρόβλημα. Παραλογισμοί και Προβληματισμοί*, Παπαζήση: Αθήνα, 2010, Π. Πολυβίου, *Κυπριανού και Κυπριακό*, Καστανιώτη: Αθήνα, 2010, Π. Πολυβίου, *Η Διπλωματία της Εισβολής*, Καστανιώτη: Αθήνα, 2010, P. Polyviou and L. Arakelian, *Fall of the Guardians. The European Court of Human Rights and the Case of Demopoulos*, University of Nicosia Press: Nicosia, 2011, P. Polyviou, *Cyprus on the Edge*, Chryssafinis and Polyviou: Nicosia, 2013, P. Polyviou, *Cyprus. A Study in the Theory, Structure and Method of the Legal System of the Republic of Cyprus*, Chryssafinis and Polyviou: Nicosia, 2015, P. Polyviou, *The Case of Ibrahim: The Doctrine of Necessity and the Republic of Cyprus*, Chryssafinis & Polyviou: Nicosia, 2015; the latter was reviewed in (2018) 30 (1) *The Cyprus Review* 411 by S. Mitas. Polyviou has also recently published Π. Πολυβίου, *Το Κυπριακό Πρόβλημα. Παρελθόν, Παρόν και Μέλλον*, Επικεντρο, 2020, which is not reviewed herewith as it is not a legal publication.

books published between 2013-2016 which are earlier versions/editions of books reviewed herewith.

I. Law of contract

Polyviou first published a two-volume work on Cypriot law of contracts in 2014.² This very detailed book was, at the time of its publication, the first comprehensive work on Cypriot contract law. Polyviou subsequently published a more concise revised volume on the same issue in 2017,³ and more recently a new revised edition, again in two volumes, in 2021.⁴ Whereas, the main purpose of his publications in the field of contract law is to analyse Cypriot substantive contract law, he assesses topic within a wider common law framework and methodology.

Whereas, Cyprus is a mixed legal system, the importance of common law for the legal system should definitely not be underestimated. By virtue of Article 188 of the Constitution, the laws which were in force during the British rule of Cyprus remained in force to the extent that they are not subsequently repealed or modified and to the extent that they are not contrary to or inconsistent with the Constitution. The Cypriot legislator, however, went even further than the constitutional text dictated. Section 29(c) of the Courts of Justice Law 14/1960 provides that common law and the principles of equity are to be considered as a source of law, in so far as they are not inconsistent with or contrary to the Constitution, provisions of International Treaty or Convention promulgated in accordance with Article 169 § 3 of the Constitution, or legislation enacted in accordance with the Constitution, or legislation which remains in force in accordance with Article 188 of the Constitution. This essentially meant that Cyprus would continue to apply the common law after independence and that English cases would continue to be considered as precedent for Cypriot courts. In addition to retaining post-independence common law as a source of law, some of the most important pieces of legislation remain in force since the British rule with minor amendments and effectively refer to common law rules (or sometimes English law as it was in force in 1959), often as influenced by the Indian codifications. These include Contract Law (Cap. 149), and the Law of Torts (Cap. 148). The aforementioned legislation remains in force, despite the fact that

² Π. Πολυβίου, *Το Δίκαιο των Συμβάσεων*, Χρυσσαφίνης και Πολυβίου: Λευκωσία, τ. I-II, 2014.

³ Π. Πολυβίου, *Η Σύμβαση στο Κυπριακό Δίκαιο. Θεωρία και Πράξη*, Χρυσσαφίνης και Πολυβίου: Λευκωσία, 2017.

⁴ Π. Πολυβίου, *Το Δίκαιο των Συμβάσεων στο Κοινοδίκαιο και το Κυπριακό Δίκαιο*, Νομική Βιβλιοθήκη: Αθήνα, τ. I-II, 2021.

in England the respective legislation might in the meantime have been repealed or amended.

Polyviou is correct in his approach that Cypriot contract law can only be understood through an evaluation of the case-law of common law. Whereas, contract law is governed by statutory legislation in Cyprus, the common law methodology, comparative approach, and system of precedent is the backbone of any understanding of the system. Polyviou expresses the view that even without the existence of the statutory basis of Cap. 149, the Cypriot contract law would be roughly the same, because of its common law structure. This raises a number of questions in Cyprus, as well as in other countries where common law is applied: to what extent should judges apply their own understanding of how the law ought to be in their assessment of what the law currently is? The process of continuous judicial reshaping of the law is based on the premise of organic development, rather than the imposition of the arbitrary personal tastes of judges; however, this is always easier said than applied. Polyviou argues that whereas the strict distinction between continental law and common law does not reflect reality, since statutory initiative and judicial action co-exist in both systems, in common law systems the judge, rather than the legislator, is the central figure of the system. Whereas, Cypriot law entails a degree of mixity between the two approaches, in practice the common law has superseded the application of the Cypriot statutory contract law. Polyviou further argues correctly that contract law is applied within a pragmatic framework, and with a practical approach, on a case-by-case basis, rather than by applying preconceived notions prescribed in the statute.

As already indicated, Polyviou's work is exhaustive in scope, including questions such as capacity, formalities, offer and acceptance, consideration, intention to create legal relations, privity of contract, consent, unconscionable bargains, mistake, non est factum, rectification, good faith, content, unlawfulness, invalidity, public policy, frustration, remedies, assignment, and unjust enrichment. The methodological analysis of the case-law echoes the approach followed by classic works, such as the Sweet & Maxwell's Common Law Library. Polyviou assesses the development of Cypriot law in its totality, thus including the development of common law, and concludes that there is no general theory of good faith in common law; rather the approach should remain empirical, without generalization. Despite this sweeping statement, he acknowledges that there are various fields of contract law where notions such as good faith and honest contractual behaviour, as well as the need

to protect economically vulnerable groups and consumers, have become of significance, and have been used so as to extend the limits of traditional contract law. Contractual freedom has thus been restricted in recent decades as a result of the wider political and social changes, and statutory initiative to restrict such freedom has been considered as necessary.

II. Law of torts

Polyviou first published a comprehensive book on the law of negligence as applied in Cyprus in 2019.⁵ He subsequently published a, wider in scope two-volume book on the law of torts in 2020.⁶ Polyviou has also published two volumes on the specific tort of defamation, the first in 2013,⁷ and an updated one in 2019,⁸ as well as a related volume on the protection of the right to personality.⁹

The methodology of the Cypriot law of torts presents a number of similarities to what has already been discussed with regards to contract law. Tort law is also based on a statutory legal instrument, but it is expressly complemented by common law, and Polyviou correctly assesses the provisions of Cypriot law within the wider framework of common law and precedents. Notions such as duty of care, standard of care, causation, and public policy, apply as requisites for liability in the Cypriot law of negligence. Section 51 of the Civil Wrongs Law, Cap. 148 purports to codify the English common law regarding the tort of negligence, and the Supreme Court of Cyprus has held that it should be interpreted and applied in such a manner as to give effect to the will and intention of the legislator and in order to apply to the living conditions prevailing in Cyprus. The manner in which similar provisions have been construed and applied in another jurisdiction is extremely helpful to the court, but the aim should always be to serve the people of Cyprus by applying the provisions as they were statutorily enacted by the country's legislator. However, in practice, the Supreme Court has been eager to adopt the development of the English case law regarding negligence, and has rarely engaged into its own attempt to construe the statutory provisions regarding negligence. Consequently, the Supreme

⁵ Π. Πολυβίου, *Η Αμέλεια στο Κυπριακό Δίκαιο*, Χρυσσαφίνης και Πολυβίου: Λευκωσία, 2019.

⁶ Π. Πολυβίου, *Αστικά Αδικήματα στο Κυπριακό Δίκαιο*, Χρυσσαφίνης και Πολυβίου: Λευκωσία, τ. I-II, 2020.

⁷ Π. Πολυβίου, *Το Σύγχρονο Δίκαιο της Δυσφήμισης*, Χρυσσαφίνης και Πολυβίου: Λευκωσία, 2013.

⁸ Π. Πολυβίου, *Η Δυσφήμιση στο Κυπριακό και Ευρωπαϊκό Δίκαιο*, Νομική Βιβλιοθήκη: Αθήνα, 2019.

⁹ Π. Πολυβίου, *Το Δικαίωμα στην Προσωπικότητα στο Κυπριακό Δίκαιο*, Χρυσσαφίνης και Πολυβίου: Λευκωσία, 2018.

Court has departed from the exhaustive and detailed list included in section 51 of Cap. 148 and has adopted the English case law setting out the requirements for negligence. This has been overall positive, since the modern common law of negligence, derives from the leading English case of *Donoghue v. Stevenson*, which due to time-constraints had not been taken into account when drafting section 51 of Cap. 148. However, it also confirms that in practice the courts are often willing to ignore the wording of the statutory instruments in favour of common law developments, which had also been a finding of Polyviou during his analysis of the law of contracts described above.

Polyviou analyses remedies, specific torts, as well as specific issues of negligence such as liability of professionals, and liability of the State, in an exhaustive manner, with comparative analysis of multiple common law jurisdictions, always focusing on how they apply in Cyprus. His work is both illuminating and critical on how the Cypriot courts have approached the issues. Other than negligence, defamation is the most challenging tort, and it makes sense that Polyviou, other than his general work, has authored separate monographs on negligence, and defamation. The Supreme Court of Cyprus has repeatedly held that a person's reputation has to be protected, as reputation is an integral part of the dignity of the individual, forming the basis for his/her well-being in a democratic society; damaging one's reputation with unfounded accusations is contrary to the public interest. There is no field where the direct correlation between human rights and the law of torts is more evident than in the law of defamation. In defamation cases there are two conflicting human rights which need to be balanced: the right of freedom of speech and of expression, on the one hand, and the right to safeguard one's personality, fame and integrity, on the other hand. In Cyprus, this second right is safeguarded under Article 15 of the Constitution and under Article 8 of the ECHR. Both rights are equally important. The courts should therefore express care and sensitivity so as to safeguard that any restrictions to either right are absolutely necessary. It has accordingly been held by the Supreme Court that the right to personality is recognized as one of the grounds on the basis of which the right to freedom of expression may be restricted. There is thus no general right to defame another person. When examining cases of defamation, the courts should strive to balance the two rights on the basis of the principle of proportionality, in order to assess whether in each given case the protection of the personality of an individual should be considered as more worthy of protection than the freedom of expression or the freedom of the

public to receive information on issues of general interest. Polyviou assesses this conflict within a comparative framework, focusing on an assessment of both the common threads and paradoxes of the existing case-law, including an analysis of several cases he handled personally.

III. Labour law

Polyviou first published a comprehensive two-volume work on the Cypriot contract of employment in 2016,¹⁰ which was restructured and updated in a new volume about labour law in 2018.¹¹ Labour law is generally classified as part of private law and is accordingly common law oriented. Employment relationships in Cyprus are governed by ordinary contract law principles and are supplemented by statutory rights and obligations where appropriate. Thus, labour law is closely associated with contract law. However, there are also aspects of labour law which are governed by public law, such as the constitutional safeguards for the right to strike and the freedom of workers to organize, whereas the government through the Ministry of Labour, Welfare and Social Insurance actively participates in the mediation procedures for resolving disputes between employers and trade unions. Labour law remains a central part of the development of Cypriot social policy.

As Polyviou correctly acknowledges, an analysis of Cypriot labour law cannot be restricted in questions regulated by statutory legislation and regulatory instruments, but should extend also to other institutions and procedures whose origin is not the State. One of the most defining characteristics of the ‘Cypriot corporatist model’ is its reliance on collective bargaining agreements, which involve negotiations between the parties concerned. The Industrial Relations Code is essentially a soft law document, a gentlemen’s agreement that regulates the collective bargaining process, and presents a conflict resolution mechanism when employers’ and employees’ representatives fail to reach a mutually acceptable outcome. In the preamble to the Code, the then Minister of Labour and Social Insurance stated that its smooth application presupposes a spirit of responsibility for the faithful observance of the Code by both employers and employee organizations. A violation of the Code does not involve any legal sanctions. Nevertheless, deviations from the Code have been relatively rare, as it has always assumed a great degree of respect by all

¹⁰ Π. Πολυβίου, *Η Σύμβαση Εργασίας στο Κυπριακό Δίκαιο*, Χρυσ αφίνης και Πολυβίου: Λευκωσία, τ. Ι-ΙΙ, 2016.

¹¹ Π. Πολυβίου, *Το Εργατικό Δίκαιο της Κύπρου. Θεωρία και Πράξη*, Χρυσ αφίνης και Πολυβίου: Λευκωσία, 2018.

parties concerned. Collective agreements also have not been incorporated in legislation, and do not, as a principle, create rights and obligations under public law. However, their terms may be incorporated in individual employment contracts and so become binding on the parties thereto. A collective employment agreement may not prevail over an individual employment agreement, unless the terms of the collective agreement have been incorporated, expressly or impliedly, in the individual employment agreement.

Polyviou thus categorizes labour law as a distinct legal category consisting of sources of substantive law, institutions, and procedures; labour law is viewed as a mosaic of legal elements hailing from different parts of the law, and which also includes elements which are not strictly legal. As opposed to contract or tort law, the methodology of labour law is not a unitary one; the distinct methodologies of common law and continental law (especially through the application of Greek labour law authorities) co-exist, as heavily influenced by the application of the EU labour law. In addition voluntariness in the institutional tripartite co-operation is at the heart of the system. In this respect Polyviou argues that the contract of employment has evolved beyond a mere contract reproducing the agreement of the parties, to an employment relationship which covers also their reasonable expectations and the expectations of society as a whole. The employment contract does not therefore concern only the parties to it, but also society, as it has an effect to the overall societal and economic environment. This evolution of the employment contract, so as to include the wider expectations and demands of society is diligently addressed in Polyviou's work, who assesses the case-law through the lens of this evolution of modern labour law. There is little doubt that the EU accession has helped shape Cypriot labour law to a dynamic legal field, which is not restricted to judicial proceedings.

IV. Criminal law

In 2021 Polyviou published a significant monograph on abuse of process and its emerging importance for criminal law proceedings.¹² Abuse of process was mainly used within the Cypriot law context in civil law cases; however, in a 2019 appellate judgment Polyviou, representing former directors of the Bank of Cyprus convinced the court to fully apply the common law principles on abuse of criminal process,

¹² Π. Πολυβίου, *Κατάχρηση Διαδικασίας στο Κυπριακό Δίκαιο*, Χρυσοφίνης και Πολυβίου: Λευκωσία, 2021.

as well as Article 35 of the Constitution which imposes upon the courts a duty to safeguard that fundamental rights are not violated. The Supreme Court correctly accepted that its ultimate duty is to promote the interests of justice and to avoid causing injustice, and that subsequently abuse of judicial process cannot be tolerated merely in order to advance the alleged public interests of prosecuting. In cases of malpractice by law enforcement agencies, the courts should not convey the impression that it will adopt the approach that the end justifies the means, as otherwise the integrity of the criminal justice system would be hindered.

As Polyviou convincingly argues, relying on common law authorities, for a person to be harassed and put to the expense of perhaps a long trial and then given an absolute discharge is hardly from any point of view an effective substitute for the exercise by the court of the power to suspend or quash proceedings for abuse of process. The powers of the court to quash criminal proceedings have recently been used in high-profile financial criminal cases which were the outcome of the criminal investigation that followed the collapse of the economy of Cyprus in March, 2013, such as the Bank of Cyprus case, and the Christodoulou and Zolotas cases. The emerging importance of the exercise of the court's powers to prevent abuse of process in criminal cases before it is analysed by Polyviou with reference to common law.

IV. Human rights law

Polyviou first published a monograph in 2016 on administrative authorities which act as quasi-judicial tribunals, with a specific consideration of the Committee for the Protection of Competition, and the Cyprus Securities and Exchange Commission.¹³ This was further revised and updated in 2017.¹⁴ Polyviou argues that the structure and function of such administrative authorities are inconsistent with the right to a fair trial as safeguarded by Article 30 of the Constitution of Cyprus and Article 6 of the European Convention on Human Rights. Polyviou focuses on the fact that administrative organs having wide-ranging quasi-judicial powers may impose sanctions without adhering to the requirements for a fair trial. A similar argument had first been raised in the early 2000s, when Sigma, a TV channel attempted to challenge the sanctioning powers of the Cyprus Radio Television Authority, raising the claim that the sanctions were of a criminal character, and that the Authority acted at the same

¹³ Π. Πολυβίου, *Διοίκηση και Δικαιοσύνη. Η Επιτροπή Προστασίας του Ανταγωνισμού και η Επιτροπή Κεφαλαιαγοράς στο Κυπριακό Δίκαιο*, Χρυσάφινης και Πολυβίου: Λευκωσία, 2016.

¹⁴ Π. Πολυβίου, *Διοίκηση και Δικαιοσύνη. Η Επιτροπή Προστασίας του Ανταγωνισμού και η Επιτροπή Κεφαλαιαγοράς στο Κυπριακό Δίκαιο*, Χρυσάφινης και Πολυβίου: Λευκωσία, 2017.

time as a prosecutor, investigator-witness, and judge. The Full Bench of the Supreme Court of Cyprus had rejected these arguments. As regards compatibility of the proceedings with Article 6, paragraph 1 of the European Convention on Human Rights and Article 30, paragraph 2 of the Constitution of Cyprus, particular emphasis was placed on the possibility to challenge the sanctioning decisions of the administrative authorities before the administrative court. However, in these cases the administrative court may only exercise a limited judicial review, not having full jurisdiction to review the facts of the case. Cyprus adheres to the continental system standards of judicial review of administrative acts, in accordance to which the Supreme Court may not amend an administrative decision, but only annul it, and may not examine the merits of the administrative authority's decision and substitute it with its own judgment. Nor does the court have the competence to examine and assess the facts of the case, deciding upon them afresh. The European Court of Human Rights eventually dismissed an application by Sigma against Cyprus on this issue in 2011, and held that the powers of the administrative court were in principle adequate, insofar as it could have annulled the decisions on a number of grounds, including if the decision had been reached on the basis of a misconception of fact or law, there had been no proper enquiry or a lack of due reasoning, or on procedural grounds. However, the European Court's reasoning clearly relied on the facts of the case before it, leaving the question open for cases where questions of fact, or about the proper interpretation and implementation of the legislative provisions might be in dispute.

Polyviou analyses the Sigma case, and distinguishes it from the application of the principle of fair trial in the cases of the Commission for the Protection of Competition and the Cyprus and Securities Exchange Commission. He argues that the proceedings before the said two authorities should be understood as 'criminal charges' for the purposes of Article 6 of the European Convention on Human Rights, and that the administrative authorities accordingly lack the necessary independence and impartiality, which would necessitate that the reviewing court has full jurisdiction to carry out a review of the case. The limited administrative review is therefore not sufficient and violates the right to a fair trial. Polyviou's argumentation is a powerful one, and it is based on an extensive analysis of the case-law of the European Court of Human Rights.

The latest volume published by Polyviou at the time of writing is a monograph on search and seizure warrants.¹⁵ Polyviou had first written on this topic in 1982,

¹⁵ Π. Πολυβίου, *Εντάλματα Έρευνας και Κατάσχεση Πραγμάτων*, Νομική Βιβλιοθήκη: Αθήνα, 2021.

when he published a book on search and seizure with a comparison between US constitutional law and common law.¹⁶ His new publication assesses the Cypriot law of search and seizure within a comparative framework. Article 16 of the Constitution of Cyprus explicitly stipulates that every person's dwelling house is inviolable. The protection afforded by Article 16 is not restricted to domicilium, but is also extended to domus. The police or any other authority or person may not enter, or search the home of a person, irrespective of whether such home is of a permanent or temporary nature, unless such entry or search is in accordance with a duly reasoned judicial order as provided by law, or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster. Polyviou rightly argues that the protection afforded by Article 16 of the Constitution, which is also part of Article 8 of the European Convention on Human Rights, is one of the most important human rights safeguards and at the core of a free society.

The classic question at the core of Polyviou's book is how to achieve a balance between protecting human rights on the one hand, and preventing and investigating crime and corruption on the other so as to safeguard security of the State and social cohesion. Polyviou argues that whereas Article 16 of the Constitution, and the case-law of the European Court of Human Rights, especially with regards to the principle of proportionality provide a powerful protection from arbitrary or unlawful search and seizure, the Cypriot legislation is on the contrary outdated and incompatible with the need to offer an acceptable level of human rights protection. He substantiates this by comparing the provisions of Cypriot statutory legislation with respective provisions in other countries, and analysing them within the framework of the case-law of the European Court of Human Rights. Polyviou further argues that the Cypriot legal provisions fail to take into account technological developments, and the technical nature of modern serious criminal offences, such as financial crime. These serious weaknesses of the system would necessitate a wide-ranging revision of the existing legislation.

Polyviou also argues, upon a reflection of the US case-law, for a re-interpretation of Articles 15 and 16 of the Constitution, so as to restrict the ambit of Article 16 of the Constitution to the 'home' of a person, excluding places where the person works; the latter should be protected by Article 15 which safeguards the right to private and family life, which is consistent with Article 8 of the European Conven-

¹⁶ P. Polyviou, *Search and Seizure: Constitutional and Common Law*, London: Duckworth, 1982.

tion on Human Rights. This would exclude professional homes from the stricter requirements needed in order to satisfy search and seizure under Article 16 of the Constitution. This is an important proposal that deserves to be discussed further.

Conclusion

The published work by Polyviou during the past years has enriched significantly the bibliography of Cypriot law, both with general works, and with detailed specific works. His work presents some main characteristics: constructive dialogue with case-law, often including – and commenting on – lengthy extracts from judicial decisions, a comparative scope focusing mainly on common law and its application in Cyprus, a discussion of the law both *de lege lata* and *de lege ferenda*, and a critical analysis on how balance can be achieved between conflicting rights or legal values, with emphasis on the need to apply the law carefully on a case-by-case basis. Polyviou's work is the outcome of five decades of continuous legal practice at a high level by a distinguished jurist, whose tenure as both an academic and professional has guided his thoughts on the law. Polyviou's work has already been cited in several judgments of Cypriot courts, and has been used extensively by practicing lawyers, judges, and students. The books reviewed herewith are not simply highly recommended, but are mandatory reading for anyone interested in Cypriot law.

ACHILLES C. EMILIANIDES

Maritime Claims and Boundary Delimitation: Tensions and Trends in the Eastern Mediterranean Sea

NICHOLAS A. IOANNIDES

Abingdon: Routledge, 2021

pp. 256

ISBN: 9780429329630

The book of N. Ioannides, *Maritime claims and boundary delimitation: tensions and trends in the eastern Mediterranean Sea*, aims to cover a substantial topic that concerns international lawyers, political scientists and analysts and, generally, those interested in the application of the law of the sea in the Eastern Mediterranean Sea. More specifically, the book analyses and assesses the maritime claims of Cyprus, Egypt, Greece, Israel, Lebanon, Syria and Turkey and the delimitations of their maritime areas.

The book consists of 4 chapters. In the first chapter, the author sketches the participation of the Eastern Mediterranean states in the UNCLOS III, law of the sea conferences, held from 1973 until 1982, with references to previous conferences. The book analyses the presence of the East Med states at and their stance towards UNCLOS III and their viewpoints on the definition of the territorial sea and its breadth, the notion of the continental shelf and EEZ, the regime of islands, the regime of enclosed and semi-enclosed seas and the issue of maritime boundary. Interestingly, it presents the contemporary state legislation, thereby making clear, in a practical way, the tensions between the East Med states. Although the presentation is restricted to the East Med states, due to the specific focus of the book, undoubtedly, the book offers a thorough picture of their claims and positions, allowing the reader to acquire an in-depth understanding of their contemporary stance.

The second chapter analyses the contemporary developments with respect to the oil and gas discoveries and maritime delimitations in the Eastern Mediterranean sea. The book overviews the offshore oil and gas activities in the region and the role of the EU. Further, it maps the East Med states' maritime boundary delimitation agreements against their specific background highlighting the political tensions and collaborations between the states of the region. Interestingly, the difficulties of a judicial maritime delimitation for the establishment of a trilateral boundary between Greece, Egypt and Cyprus that may arise because of the im-

pingement upon Turkey's rights are pointed out. The chapter further analyses the provisions of the EEZ delimitation agreements and the Egypt-Cyprus agreement on the development of cross-median line hydrocarbon resources (2013). The chapter ends with the critical analysis of Turkey's reaction to the maritime delimitation in the East Med.

The third chapter focuses on the maritime claims and the unilateral activities in the undelimited maritime areas. The chapter begins with a thorough and critical overview of the legal framework, conventional and jurisprudential, governing oil and gas activities in undelimited areas. It is supported that even though it is not clear whether the relevant LOSC provisions form part of customary international law, they reflect general principles and, thus, they must be observed even by states that are not parties to the Convention. The chapter proceeds with the application of the applicable law, as identified by the author, to the activities in maritime areas between the Greek islands of the south-eastern Aegean Sea and Cyprus and to the maritime dispute between Israel and Lebanon. Furthermore, the chapter analyses Turkey's claims through the "Turkish Republic of Northern Cyprus". In this section, the chapter analyses the "TRNC" regime under international law and assesses the continental shelf delimitation between Turkey and the "TRNC", the "Barbaros" expedition, the drilling activities performed by Turkey around Cyprus and the Turkey-Libya MoU.

In the last chapter, the book examines the maritime claims of non-state entities, namely the State of Palestine and the UK-controlled Sovereign Base Areas in Cyprus, with special emphasis on the later.

The book offers a useful, thorough, critical overview of the maritime claims and delimitations in the Eastern Mediterranean Sea. Focusing on the East Med, the book highlights the potentials that derive from the law of the sea and the establishment of maritime boundaries according to it and, at the same time, the lack of such potentials or the difficulties faced by the states of the region that choose not to conform with it. The book is characterized by its analytical and penetrating insight and the plurality of the sources used.

KATERINA ELIA

CALL FOR PAPERS

The Cyprus Review (Fall 2021)

The Cyprus Review invites submissions for a special section of its upcoming issue on

I. Minority Groups in Cyprus: A Critical Reappraisal

There is a general scarcity of social science research, both quantitative and qualitative, about minorities in Cyprus. Social scientists tend to engage in a discussion of the main minorities of the island by focusing on their historical development, their culture, educational and linguistic issues, as well as their integration. Their relationship with the majority is mainly viewed through the lens of the Cyprus Question and the demands of minority groups themselves. The abnormal political situation prevailing on the island due to the Cyprus Question inevitably impinges on the definition of who should be included in the notion of a minority and has de facto translated into narrow avenues of research.

An extensive literature considering the social definition of minorities has noted that the social concept of a minority group implies a numerically smaller group in a certain society that differentiates itself by ethnicity, creed, doctrine, rituals, practices or otherwise. However, a numeric definition of such a group does not suffice to properly appreciate its social status. The number of its members is amenable to the historical contingency of its emergence and development and subject to change. Other variables, such as the pattern of interaction with other groups, the privileged access to political or financial resources of some of their leading members and the groups' smooth functioning are all relevant to social status. The size of a minority community does not exhaust questions of collective social status or everyday experiences.

With the objective of contributing to the development and proliferation of studies of minority questions focusing on Cyprus, the oldest Cypriological journal of social sciences, *The Cyprus Review* launches a call for papers for its forthcoming issue and invites all interested scholars to consider submitting original contributions in the Social Sciences widely defined and including the fields of International Affairs, Politics and Governance, , History, Law, Education and other related fields, always pertinent to Cyprus.

Following below is a highly indicative list of topics:

- The history of minority groups in Cyprus
- Minority identities in the Cypriot context
- Minority groups as political actors
- Politicians, opinion leaders, and minority groups
- Minority groups and state institutions/policy making
- Definitions, types, and classifications of minority groups in Cyprus
- Minority rights and human rights
- The law on the identification and protection of minority groups
- Cypriot civil society and minority groups
- Minority groups and cultural heritage
- Art, creation, and minority groups
- Legacies of minority groups
- Language, educational practice, and minority groups
- Inclusion, exclusion, identity, otherness, and minority groups
- Hate speech, segregation, polarisation, and minority groups

This is not an exclusive list. On the contrary, we urge prospective authors to think out of the box, endorse bold new ideas, and research the various aspects of this topical question. Articles should have a relevance to the case of Cyprus, thus enhancing Cyprological studies and research.

Submission Instructions

- Authors should consult the journal's guidelines for submission which can be found at: <http://cyprusreview.org/index.php/cr/information/authors>
- *The Cyprus Review* is available at <http://cyprusreview.org>
- For specific academic enquiries, please contact *The Cyprus Review Editorial Team* via <cy_review@unic.ac.cy>.
- Interested scholars should send their papers to the following email address <cy_review@unic.ac.cy> or submit their articles through our online platform available at the review's web page <https://cyprusreview.org>, **not later than 10 September 2021**.
- All submissions should be identified in the email subject with the heading '**CR MG**'

The Cyprus Review invites submissions
for a special section of its upcoming issue on

II. The State and Organised Social Groups in the Republic of Cyprus

The political and legal aspects of Cypriot institutions rarely utilise a “sociological imagination” that places State and administrative structures opposite or in relation to organised social groups and more broadly civil society actors, whether trade unions, professional organisations, social movements, networks, or campaigns. It is thus unsurprising that there is meager research on the political and legal aspects of State and administrative linkage to and interaction with social politics. How do social groups approach the State and what strategies do they craft to oppose it, utilise its structures and services, complement or influence it? What institutional response does collective action outside the State evoke by State and government institutions themselves?

In the Eastonian tradition, every democracy is an input-output system and thus institutional outcomes reflect either directly or indirectly the pressures on political and bureaucratic elites from society at large. Fleshing out the interactions or lack thereof in the processes between input and output can help draw conclusions about responsiveness, accountability, transparency, equality of access and the broader pathologies, historical inertia or openings in public governance. Overall, a key piece of information about democracy for social scientists is how hard the shell of formal governance is vis-à-vis organised society. These are important questions both at the time of another impending economic crisis, set off by the COVID-19 pandemic, and for Cypriot democracy in particular, which has been undergoing a legitimacy crisis in terms of high abstention, low trust in institutions, a generalised anti-politics sentiment, and corruption scandals.

This Special Section of *The Cyprus Review* will focus on **The State and Organised Social Groups in the Republic of Cyprus**. The issue intends to serve as a platform for inter-disciplinary studies in the domain of institutions and the nature, quality and challenges of contemporary democracy in Cyprus. We encourage authors to contribute to this effort through interrogating various aspects of State-society relations, with focus on the interaction between political institutions or their bureaucracies on the one side and organised social actors that mobilise for particular beliefs or interests on

the other side. At core, lies a key theme with four dimensions: the extent, ways, prospects, and limitations in the interaction between State and organised society.

We especially encourage original proposals on one or more of the following topics:

- Trade unions, sectional interests and the Cypriot State
- The State and value groups in Cyprus
- The State and emerging social movements
- Political and legal parameters of lobbying in Cyprus
- Local government structures and social groups
- Parties as linkage between social groups and the State
- Social group strategies towards the State
- The social roots of politicians in Cyprus
- State-society relations and crises
- Organised group experiences with public administration

This is not an exclusive list. Papers can research related aspects of State-society relations in the Republic of Cyprus and can be contemporary or historical in nature. All papers will be focused on Cyprus, so as to enhance Cyprological knowledge, but can be comparative in perspective.

Submission Instructions

- Authors should consult the journal's guidelines for submission which can be found at: <http://cyprusreview.org/index.php/cr/information/authors>
- *The Cyprus Review* is available at <http://cyprusreview.org>
- For specific academic enquiries, please contact *The Cyprus Review Editorial Team* via <cy_review@unic.ac.cy>.
- Interested scholars should send their papers to the following email address <cy_review@unic.ac.cy> or submit their articles through our online platform available at the review's web page <https://cyprusreview.org>, **not later than 27 December 2021**.
- All submissions should be identified in the email subject with the heading **'CR S-OSG'**

